

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to Claimant Dr. Stephen Weigert

in re Account of Julius Weigert

Claim Number: 211312/MB

Award Amount: 149,500.00 Swiss Francs

This certified award is based upon the claim of Dr. Stephen Weigert (the "Claimant") to the Account of Julius Weigert (the "Account Owner") at the Zürich branch of the [REDACTED] (the "Bank").

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Julius Weigert as his father's first cousin who lived in Berlin, Germany. According to the Claimant, Julius Weigert, who was Jewish, was born on 2 February 1865 and married Kaethe Friedlander, with whom he had two children, Hans (born in 1896) and Guenther (born in 1906). According to the Claimant, Hans died in battle in 1918 during the First World War and Kaethe died in 1931. The Claimant did not know Guenther's fate. Julius Weigert died in the Theresienstadt concentration camp in 1942.

Information Available in the Bank Records

The bank records consist of a power of attorney card, an account opening card and printouts from the Bank's electronic database. According to these records, the Account Owner was Dr. Julius Weigert of Berlin, Germany who owned a custody account over which he granted power of attorney to Margarethe Brasch in 1925. The bank records do not indicate on what date the account was opened, nor do they indicate the value of the account. The bank records also do not show if or when the account at issue was closed, or to whom it was paid. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (the "ICEP Investigation") did not find this account in the Bank's system of open accounts, and they

therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner as his father's cousin. His relative's name matches the published name of the Account Owner. The Claimant stated that his relative lived in Berlin which information matches information about the Account Owner contained in the bank documents. In support of his claim, the Claimant submitted documents, including an extensive family tree, a copy of his father's death certificate, and a copy of his own birth certificate. No information submitted by the Claimant is inconsistent with information contained in the bank documents.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, lived in Germany during the Second World War, and died in the Theresienstadt concentration camp in 1942.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that his father was Erich Weigert, cousin of Julius Weigert, the Account Owner. While the Claimant does not provide any information identifying the Power of Attorney Holder, Margarethe Brasch, the credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of the information concerning his relationship to the Account Owner. The Claimant indicated that the Account Owner's wife and elder son pre-deceased him. Although the Claimant does not know the fate or whereabouts of the Account Owner's younger son or several other relatives who may be more closely related to the Account Owner, the Tribunal notes that no one else has claimed this account. Under Article 29 of the Rules Governing the Claims Resolution Process (the "Rules"), the Tribunal may make an award to descendants of the Account Owner's grandparents who claim the account when no one more closely related files a claim.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to

banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owner or his family as described below, there is a substantial likelihood that these funds went to the Nazis or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the accounts, the Tribunal concludes it is plausible that neither the Account Owner nor his heirs received the proceeds.¹ The application of confiscatory laws by the Nazi Regime during the 1930s makes it unlikely that the Account Owner received the proceeds himself before his death in a concentration camp in 1942. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his relative and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid

¹ In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, www.crt-ii.org.

claims, claimants shall receive an initial payment of 35% of the total award amount. In this case, the value of the account at issue is based on the Article 35 presumptions, and there is the possibility of other competing claims. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, 35% of the total award amount is 52,325.00 Swiss Francs.

Scope of the Award

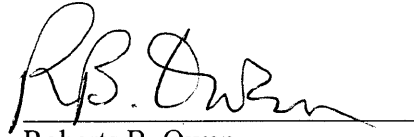
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They have therefore instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a strong claim and that the risk of future competing claims is low, the Tribunal shall prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a plausible claim to the account at issue, thus reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval by the Court of the present Award for payment by the Special Masters in accordance with Article 37(3) of the Rules.

27 Feb. 2002
Date


Roberts B. Owen
Senior Claims Judge