

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Avram Weinbaum

Claim Number: 210904/MB

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Avram Weinbaum (the “Account Owner”) at the Zürich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Avram Weinbaum as his paternal uncle. The Claimant stated that his uncle, who was Jewish, was born in 1899 in Secureni, Romania. According to the Claimant, Avram and his wife [REDACTED], were married in 1922 in Romania, and lived in Cernauti, Romania until 1934 and in Bucarest, Romania until 1941. The Claimant stated that his uncle did not have any children. The Claimant further stated that his uncle was a businessman, as well as a partner in trading companies based in Romania that were owned by his brother, [REDACTED], who is the Claimant’s father. According to the partnership agreement between the Claimant’s father and the Claimant’s uncle, Avram Weinbaum lived at No. 57a, Boulevard Elisabeta in Bucarest. The Claimant asserted that his uncle fled Romania in 1941 and settled in Palestine where he lived until his death in 1943. The Claimant stated that his uncle’s wife died shortly thereafter. The Claimant indicated that he is the only living heir of his uncle.

Information Available in the Bank Records

The bank records consist of an internal bank correspondence and a printout from the Bank’s electronic database. According to these records, the sole Account Owner was Avram Weinbaum who lived at Boulevard Elisabeta No. 57a in Bucarest, Romania. The bank records indicate that

the Account Owner held a numbered account, but do not indicate the type of account. The bank records do not show on what date the account at issue was closed, to whom it was paid, or the value of this account. However, the bank records indicate that the account was open at least until 1945. 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 did not find this account in the Bank's system of open accounts, and they therefore presumed that it was now 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. His uncle's name matches the published name of the Account Owner. Further, the street residence the Claimant provided for his uncle precisely matches unpublished information about the Account Owner's residence contained in the bank records. In support of his claim, the Claimant submitted documents indicating that his uncle was Avram Weinbaum, who resided at Boulevard Elisabeta No. 57a in Bucharest, Romania.

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. The Claimant further indicated that his uncle fled Romania in 1941.

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 he is the son of the Account Owner's brother. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning his relationship to the Account Owner.

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. However, in this case, for the reasons discussed below, there is a substantial likelihood that the funds were transferred to the Romanian Government instead of being paid to the Account Owner or his family.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds. The account belonged to a Romanian citizen, was still open as of 1945, which was two years after the Account Owner died, and therefore may have been subject to the Freeze of Romanian Assets in August 1948 pursuant to a Decree of the Swiss Federal Council. The Freeze was lifted in October 1950, and approximately one year later, in August 1951, Switzerland and Romania entered into an arrangement whereby unclaimed assets held by Romanian citizens in Swiss banks were to be transferred to the Romanian Government in return for compensation for Swiss property that had been nationalized by Romania's communist regime. The Account Owner's dormant account would have been subject to transfer to the Romanian Government under this arrangement. As the Account Owner died in 1943, he could not have closed the account and received the proceeds after the Freeze was lifted in 1950. Additionally, the Tribunal notes that it would have been extremely difficult and dangerous for the heirs of the Account Owner to access the account after the Second World War because they lived in Communist Eastern Europe. Moreover, there is no evidence in the bank records of any such access.

The purpose of the Settlement in the Holocaust Victim Assets Litigation (the "Settlement"), and the Claims Resolution Process established under the Settlement, is to return to Victims of Nazi Persecution who held accounts at Swiss banks, or heirs of such Victims, the value of those accounts. The Tribunal has determined that there is a substantial likelihood that the Swiss Government, which is a Releasee under the Settlement, used this account to obtain compensation for Swiss citizens. Accordingly, the Tribunal determines that neither the Account Owner nor his heirs received the proceeds of the account, and thus it is consistent with the Settlement to pay the Claimant the proceeds of the account.

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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was his uncle 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 and the type 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 an account of unknown type was 3,950.00 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 45,425.00 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 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 15,898.75 Swiss Francs.

Scope of the Award

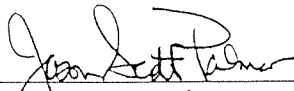
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 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. Articles 37(3)(a) and (b) of the Rules provide that when the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases when either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value and is of the opinion that the account/s at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

8 May 2002
Date



Jason Scott Palmer
Resident Claims Judge