

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Edit Moses
represented by Eyal Frost

in re Accounts of Hans Edelstein and Paul Edelstein

Claim Number: 200889/MD

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of Edit Moses (the "Claimant") to the Account of Hans Edelstein at the [REDACTED] ("Bank 1") and to the Account of Paul Edelstein at the [REDACTED] ("Bank 2").

All awards are published, but 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 filed a claim in which she stated that her mother's cousins, i.e. sons of the Claimant's grandmother's brother, Hans (Hanus) Edelstein and Paul (Pavel) Edelstein, were published as account owner and power of attorney holder on the 5 February 2001 List of Account Owners identified by the Independent Committee of Eminent Persons. According to the information provided by the Claimant, Hans Edelstein was born in 1899 and Paul Edelstein in 1903, both in Pribram, former Czechoslovakia. Hans and Paul Edelstein were business associates and owned an undergarment and garment manufacturing wholesale business in Reichenberg, Czechoslovakia. The Claimant stated that both brothers remained unmarried and did not have any children.

The Claimant stated that her relatives, who were Jewish, were deported to the concentration camp in Theresienstadt. Hans Edelstein was then deported to the concentration camp in Auschwitz where he died in October 1942, and Paul Edelstein to the ghetto in Lodz. The exact date of death of Paul Edelstein is unknown. In support of her claim, the Claimant attached certificates issued by the Theresienstadt Martyrs Remembrance Association and remembrance statements submitted by the Claimant to Yad Vashem. These documents certify that Hans and Paul Edelstein lived in Reichenberg, that they were interned in the concentration camp in Theresienstadt, and that they died in the Holocaust.

Information Available in the Bank Documents

The bank documents from Bank 1 indicate that the sole Account Owner was Hans Edelstein and the Power of Attorney Holder was Paul Edelstein, and that both of them lived in Reichenberg. The account was opened in 1931. The type of the Account is not known. The bank records do not show when the Account was closed, or to whom it was paid, nor do they indicate the value of the Account. There is no evidence of activity on the Account after 1945.

In addition, the bank documents from Bank 2 indicate that Paul Edelstein from Reichenberg owned a safety deposit box which was not published on the 2001 List of Swiss Bank Accounts from the ICEP Investigation. As indicated on the bank's list of closed safe deposit boxes, the safe deposit box held by Paul Edelstein contained one envelope, with a declared value of 9,000.00 Swiss Francs. The safe deposit box was closed on 21 July 1938.

Tribunal's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. She provided information about Hans and Paul Edelstein, including their domicile in Reichenberg and the precise address of their business, which matches unpublished information about the Account Owners contained in the bank documents.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant's Representative stated that her relatives were Jewish and that they were deported to the concentration camp in Theresienstadt. Hans Edelstein perished in the concentration camp in Auschwitz, and Paul Edelstein in the ghetto in Lodz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owners by providing specific biographic information about them. According to the information provided by the Claimant, the Account Owners were sons of her maternal grandmother's brother. They remained unmarried and died without issue. Furthermore, the Claimant states that all her relatives died in the Holocaust and that she is the only surviving member of her family and thus the sole heir of the Account Owners. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning that she is the only surviving heir of the Account Owners.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account was paid to the Account Owners or their 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. Moreover, Swiss banks were authorized, under certain conditions, to forcibly open safe deposit boxes in order to recover unpaid rental fees. Thus, if the funds were not in fact paid to the account owners or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds in this case went to the Nazis.

Although the Tribunal cannot determine with certainty who received the proceeds of Hans Edelstein's account, the Tribunal concludes that a plausible showing has been made that neither Hans Edelstein nor his heirs received the proceeds.¹ In this case, the ICEP auditors presumed that the account of Hans Edelstein was closed, but the date of closure and the identity of the person who closed the account are unknown. However, there is no evidence in the bank records suggesting that Hans Edelstein closed his account and received the proceeds himself. The Tribunal notes that Reichenberg was in the Sudetenland portion of Czechoslovakia annexed to Germany on 10 October 1938, and Nazi legislation, which was enforced in Czech territories under their occupation, provided for registration and repatriation and ultimately expropriation of foreign assets. In addition, the fact that Hans Edelstein perished in the Holocaust in 1942 makes it impossible that he himself received the assets after that time, even if those assets had not previously been confiscated.

With respect to the safe deposit box held by Paul Edelstein that was closed on 21 July 1938, the Tribunal will defer a decision, pending further consideration as to whether or not Paul Edelstein or his heirs received the contents of the safe deposit box.

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

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. After the annexation of the Sudetenland on 10 October 1938, German laws were extended to apply there as well, including with respect to foreign assets. Although many of the laws were facially non-discriminatory, the Nazi Regime 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 the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of the Sudetenland, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were widespread. Jews were required to register their assets, and 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.

Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owners were her relatives and that the relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither Hans Edelstein nor his heirs received the proceeds of his account.

Amount of the Award

Pursuant to Article 35 of the Rules, when the value and type of an account is unknown, as is the case here, the average value of other accounts in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, the average value of such account shall be 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying the balance 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.

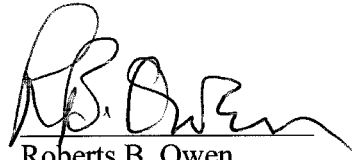
According to Article 37(3) of the Rules, in cases when the amount in the account is not known, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this instance, 35% of the total award amount is 15,898.75 Swiss Francs.

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 strong 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 accounts 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 should 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 strong claim to the Account, thus substantially reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3) of the Rules.

25 Jan. 2002
Date


Roberts B. Owen
Senior Claims Judge