

Balancing of an estate account

Topic: **Account/savings book** Case number: **2022/07**

The complainant, together with her sister and brother, was the heir of her mother, who had died several years ago. The mother had maintained an account and custody account relationship with the bank, which had fallen to the community of heirs after her death. All parties involved were domiciled in a neighboring country of Switzerland. The bank refused to execute a balancing order signed by all the heirs, even though the necessary legitimization documents were available. The bank was of the opinion that it had insufficient information about the beneficiary accounts. While the two sisters provided the requested information, the brother refused to cooperate. In the ombudsman proceedings, the bank was finally prepared to transfer the sisters' inheritance shares to the accounts they had requested.

The two heirs were in an unfortunate situation. They had agreed with the brother that each of the three should receive one third of the assets held in the bank and had sent the bank a balancing order signed by all three heirs some two years before they submitted the case to the Ombudsman. This order actually contained only rudimentary information about the beneficiary accounts. The missing information was readily supplied by the two sisters, but not by the brother. The brother refused to cooperate with his two sisters as well as with the bank. It probably played a role in this that the two sisters had cleared up their tax situation after the death of their mother. Nothing was known about the brother in this regard. This circumstance probably also had a significant influence on the bank's reluctance to execute the balancing order.

In principle, the Ombudsman understood that the bank, based on its internal instructions, wanted to clarify the relationship with the community of heirs in one step and that all three heirs had to cooperate in order to do so. However, after a balancing order signed by all heirs had been submitted and after all attempts by the two sisters and the bank to get the brother to provide the requested supplementary information regarding the desired beneficiary account had failed over a long period of time, he took the view that an alternative solution had to be found on the existing basis. Otherwise, the two heirs would be prevented, through no fault of their own, from accessing their share of the inheritance for an indefinite period of time.

After some discussions, the bank tried one last time to contact the uncooperative heir in order to obtain what it considered to be the necessary information. After this attempt unfortunately failed again, the bank finally showed itself willing to transfer to the sisters their inheritance shares, each of one third of the assets in the estate account, based on the existing balancing order to the bank relationships indicated by them. The share falling to the brother was left in the estate account. Should he continue to be uncooperative, the bank would probably be forced to manage the remaining client relationship as contactless – and ultimately dormant – based on the guidelines on the treatment of assets without contact and dormant assets.