

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Account of Josef and Amalia Arnstein

Claim Numbers: 209843/PY; 210255/PY¹

Award Amount: 134,687.50 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”)(together the “Claimants”) to the account of Josef Arnstein. This Award is to the account of Josef Arnstein (“Account Owner Josef Arnstein”) and Amalia Arnstein (“Account Owner Amalia Arnstein”) (together the “Account Owners”) at the New York 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 Claimants

The Claimants each submitted a Claim Form identifying Account Owner Josef Arnstein as their father, Josef Arnstein, who was born on 2 August 1896 in Votice, Czechoslovakia, and was married to [REDACTED], née [REDACTED], in Prague, Czechoslovakia. The Claimants stated that their father, who was Jewish, resided in Prague at Veverkova 8 until 1940 and subsequently at Italska 19 until 1941. The Claimants further stated that their father was a co-owner of the textile company *Kroner & Witrofsky*, located at Vaclavske Namesti 53 in Prague 2. According to the Claimants, who are the only children of Josef and [REDACTED] Arnstein, their father’s business was “aryanized” in 1939, and their father was deported to Lodz, Poland, in 1941, and then to Auschwitz, where he perished in 1944. The Claimants stated that their mother, [REDACTED], died in Prague on 17 October 1993.

In a telephone conversation with the CRT, Claimant [REDACTED 1] identified Account Owner Amalia Arnstein as her maternal great-aunt, the sister of her maternal grandmother

¹ The Claimants each submitted additional claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 210253, 210528, 209844 and 209845. The CRT will treat the claims to these accounts in separate decisions.

[REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that her great-aunt, Amalia Arnstein, née [REDACTED], was born in approximately 1879 near Pilsen, Czechoslovakia. According to Claimant [REDACTED 1], her great-aunt, who was also Jewish, resided in Prague. Claimant [REDACTED 1] further stated that her great-aunt was killed in a concentration camp in 1942.

The Claimants each submitted their birth certificates, indicating that their father was Josef Arnstein, and that he resided in Prague. In addition, they submitted Josef Arnstein's birth certificate and a copy of his deportation papers, indicating that he was deported to Lodz on 26 October 1941. Claimant [REDACTED 1] indicated that she was born on 14 March 1927 in Prague, and Claimant [REDACTED 2] indicated that she was born on 26 August 1928 in Prague.

The Claimants each previously submitted an Initial Questionnaire with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Josef and [REDACTED] Arnstein.

Information Available in the Bank's Records

The Bank's records consist of an extract from lists of Swiss bank assets in branches in the United States that were frozen in 1941, as well as printouts from the Bank's database. According to these records, the Account Owners were Josef and *Frau* (Mrs.) Amalia Arnstein, who resided in Prague, Czechoslovakia. The Bank's records indicate that the Account Owners held a demand deposit account. The Bank's records indicate that the account was frozen on 14 June 1941, at which point the balance in the account was 2,500.00 United States Dollars, which was equivalent to 10,775.00 Swiss Francs at the time. Assets deposited by Swiss banks in the United States were unfrozen after the signature of the Washington Agreement on 25 May 1946.

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 ("ICEP" or 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. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified Account Owner Josef Arnstein. Their father's name and city of residence match the published name and city of residence of Account Owner Josef Arnstein. Claimant [REDACTED 1] has plausibly identified Account Owner Amalia Arnstein. Her great-aunt's name and city of residence match the published name and city of residence of Account Owner Amalia Arnstein. The CRT notes that Claimant [REDACTED 1] identified both the Account Owners as her father and her aunt, despite the fact that their names were published separately on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). In support of their claims, the Claimants submitted their birth certificates confirming that Josef Arnstein was their father, and that he resided in Prague.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Josef Arnstein, and indicates that on the date of his death he was forty-eight years old, and that his recorded addresses were in Lodz and Prague, which match the information about Account Owner Josef Arnstein provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimants each filed an Initial Questionnaire with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Josef and [REDACTED] Arnstein, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants. The CRT further notes that there are no other claims to this account.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that Account Owner Josef Arnstein's business was "aryanized" in 1939, and that he was then deported to Lodz, Poland, in 1941, and later to Auschwitz, where he perished in 1944. Claimant [REDACTED 1] indicated that Account Owner Amalia Arnstein was Jewish and she was killed in a concentration camp in 1942. As noted above, a person named Josef Arnstein was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting their birth certificates and specific biographical information demonstrating that Account Owner Josef Arnstein was their father, and Account Owner Amalia Arnstein was their great-aunt.

The Issue of Who Received the Proceeds

Given that both of the Account Owners were deported to concentration camps, where they were killed; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (h), (i) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that Account Owner Josef Arnstein was their father and Account Owner Amalia Arnstein was their great-aunt, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 14 June 1941 was 2,500.00 United States Dollars, equivalent to 10,775.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is 134,687.50 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.

In this case, the Claimants are the children of Account Owner Josef Arnstein and the great-nieces of Account Owner Amalia Arnstein. Accordingly, the Claimants are each entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
August 7, 2003