

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by [REDACTED]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3], [REDACTED 4],
[REDACTED 5] and [REDACTED 6]
represented by [REDACTED]

in re Accounts of Heskiya (Hezkiya) Cohen, Eugenie Cohen and Elvina Sinai

Claim Numbers: 210851/LV; 217303/LV¹

Award Amount: 254,125.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Heskiya Cohen. This Award is to the published accounts of Heskiya Cohen (“Account Owner Heskiya Cohen”) at the Geneva branch of the [REDACTED] (“Bank I”) and the [REDACTED] (“Bank II”) and the unpublished account of Eugenie Cohen (“Account Owner Eugenie Cohen”) and Elvina Sinai (“Account Owner Elvina Sinai”) (together the “Account Owners”) at Bank I.

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 1] has in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the banks have been redacted.

Information Provided by the Claimants

The Claimants submitted two Claim Forms identifying Account Owner Heskiya Cohen and Account Owner Eugenie Cohen, née Sinai, as their parents, Heskiya (Enrique/Henry) Cohen, who was born on 15 April 1897 in Istanbul, Turkey, and Eugenie Cohen, née Sinai, who was born on 10 June 1896 in Istanbul. The Claimants stated that their parents were married in August 1918 in Istanbul. The Claimants stated that their parents had six children: Claimant [REDACTED 1], Claimant [REDACTED 2], [REDACTED 3], née [REDACTED],

¹ Claimant [REDACTED 2] submitted two Claim Forms, which were registered under the Claim Numbers 217303 and 300109. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 217303.

[REDACTED 4], [REDACTED 5] and [REDACTED 6]. Claimant [REDACTED 2] stated that his father owned a factory located at Via Mauro Macchi 33 in Milan, Italy, and that his family resided at Piazza Piola 8 in Milan. The Claimants further stated that when the persecution of Jews began in Italy, their father, who was Jewish, sent all his children to Lausanne, Switzerland, where they studied at *L'Ecole Nouvelle* until 1939. According to the information provided by Claimant [REDACTED 2], in October 1939 the entire family fled from Genoa, Italy, to New York, the United States, and then to Havana, Cuba, where they remained until 1942. Claimant [REDACTED 2] stated that the family then moved to Miami, Florida, the United States, and stayed there until 1948 when the family emigrated to Montevideo, Uruguay. The Claimants stated that their father died on 20 February 1969 in Montevideo and that their mother died on 21 October 1961 in Montevideo.

In support of their claims, the Claimants submitted a certificate issued by a federal court for civil and commercial matters in Buenos Aires, Argentina, certifying that Enrique Cohen was born on 15 April 1897 in Istanbul, Turkey, and that he was a citizen of Argentina; the United States passport of Henry Cohen, indicating that he was born on 15 April 1897 in Turkey and containing his signature; the United States passport of Eugenie Cohen, indicating that she was born on 10 June 1896 in Turkey and containing her signature; Claimant [REDACTED 1]'s passport, identifying his father as Heskiya Cohen and indicating that he was born on 23 February 1921 in Istanbul; a notarized document certifying that Enrique Cohen was born on 15 April 1897 in Istanbul and that his wife, Eugenia Sinai Cohen was born on 10 June 1896 in Istanbul; the birth certificates of [REDACTED 3], [REDACTED 5], [REDACTED 6], and [REDACTED 4], identifying their parents as Hezkia (Enrique) and Eugenia Cohen, née Sinai; Claimant [REDACTED 2]'s certificate of nationality, identifying his parents as Heskiya and Eugenia Cohen; the death certificate of Eugenia Cohen, née Sinai, indicating that she passed away in Montevideo on 21 October 1961; and Henry Cohen's death certificate, indicating that he passed away in Montevideo on 20 February 1969 in Montevideo.

Claimant [REDACTED 1] indicated that he was born on 23 February 1921 in Istanbul. Claimant [REDACTED 2] indicated that he was born on 24 April 1919 in Istanbul. Claimant [REDACTED 2] is representing his siblings, who were all born in Milan: [REDACTED 3], née [REDACTED], who was born on 18 May 1927; [REDACTED 4], who was born on 20 April 1923; [REDACTED 5], who was born on 28 April 1925; and [REDACTED 6], who was born 25 May 1929.

Information Available in the Bank's Records

Bank I

Bank I's records consist of two customer cards and a signature sample. According to these records, the Account Owner was Heskiya Cohen, a Turkish national, and the Power of Attorney Holder was Eugénie Cohen, née Sinai, the Account Owner's spouse. Bank I's records indicate that the Account Owner's contact address was c/o M. Sinai, 9 Passage Violet, Paris X, France. Bank I's records also indicate that Account Owner Heskiya Cohen held a custody account and two demand deposit accounts, one in Pounds Sterling and the other in United States Dollars.

Bank I's records indicate that the demand deposit account in Pounds Sterling was opened on an unknown date and that it was subsequently closed on 16 September 1938 when the demand deposit account in United States Dollars was opened. Bank I's records do not indicate when the demand deposit account in United States Dollars was closed or the value of the account. Bank I's records indicate that the custody account was opened on a date no later than 30 August 1938. Bank I's records do not indicate when the custody account was closed or the value of the account. 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 the demand deposit account in United States Dollars or the custody account in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in Bank I's records that the Account Owner Heskiya Cohen, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

Finally, Bank I's records also indicate that *Mme.* (Mrs.) Eugenie Cohen and *Mme.* (Mrs.) Elvina Sinai jointly held a safe deposit box. Bank I's records indicate that the safe deposit box was opened in September 1938 in Milan, Italy, and that it was closed in March 1944. Bank I's records do not indicate the value of the account or to whom it was paid. There is no evidence in Bank I's records that Account Owners Eugenie Cohen and Elvina Sinai or their heirs closed the account and received the proceeds themselves.

Bank II

Bank II's record consists of a power of attorney form dated 16 December 1937. According to this record, the Account Owner was Hezkia Cohen and the Power of Attorney Holder was Eugénie Cohen, née Sinai. Bank II's record indicates that the Account Owner's contact address was c/o M. Sinai, 7-9 Passage Violet, Paris X, France. Bank II's record indicates that Account Owner Hezkia Cohen held one account of unknown type. Bank II's record does not show when the account was closed, or to whom it was paid, nor does this record indicate the value of the account. The auditors who carried out the ICEP Investigation did not find this account in Bank II'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 Bank II's record that Account Owner Hezkia Cohen, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

Account Owner Heskiya Cohen

The Claimants have plausibly identified Account Owner Heskiya Cohen. The Claimants' parents' names match the published names of Account Owner Heskiya Cohen and the Power of Attorney Holder Eugénie Cohen. The Claimants also submitted a sample of their parents'

signatures, which match the signature samples contained in Bank I's and Bank II's records. The Claimants also identified Account Owner Heskiya Cohen's nationality and the familial relationship between Account Owner Heskiya Cohen and the Power of Attorney Holder, which match unpublished information about Account Owner Heskiya Cohen contained in Bank I's records. In support of their claims, the Claimants submitted documents, including the United States passport of Henry Cohen, indicating that he was born on 15 April 1897 in Turkey and containing his signature; the United States passport of Eugenie Cohen, indicating that she was born on 10 June 1896 in Turkey and containing her signature; Claimant [REDACTED 1]'s passport, identifying his father as Heskiya Cohen and indicating that he was born on 23 February 1921 in Istanbul; a notarized document certifying that Enrique Cohen was born on 15 April 1897 in Istanbul and that his wife, Eugenia Sinai Cohen was born on 10 June 1896 in Istanbul; and the birth certificates of [REDACTED 3], [REDACTED 5], [REDACTED 6], and [REDACTED 4], identifying their parents as Hezkia (Enrique) and Eugenia Cohen, née Sinai; Claimant [REDACTED 2]'s certificate of nationality, identifying his parents as Heskiya and Eugenia Cohen, providing independent verification that the person who is claimed to be Account Owner Heskiya Cohen had the same name, nationality and was married to a person named Eugenia Cohen, née Sinai, as recorded in Bank I's records.

Account Owner Eugenie Cohen

The Claimants have identified Account Owner Eugenie Cohen. The Claimants' mother's name and marital status match the unpublished name and the marital status of Account Owner Eugenie Cohen contained in Bank I's records. In support of their claims, the Claimants submitted the United States passport of Eugenie Cohen, indicating that she was born on 10 June 1896 in Turkey and containing her signature; a notarized document certifying that Enrique Cohen was born on 15 April 1897 in Istanbul and that his wife, Eugenia Sinai Cohen was born on 10 June 1896 in Istanbul; the birth certificates of [REDACTED 3], [REDACTED 5], [REDACTED 6], and [REDACTED 4], identifying their parents as Hezkia (Enrique) and Eugenia Cohen, née Sinai; Claimant [REDACTED 2]'s certificate of nationality, identifying his parents as Heskiya and Eugenia Cohen; and the death certificate of Eugenia Cohen, née Sinai, indicating that she passed away in Montevideo on 21 October 1961, providing independent verification that the person who is claimed to be Account Owner Eugenie Cohen had the same name and marital status recorded in the Bank's records as the name and marital status of Account Owner Eugenie Cohen.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Eugenie Cohen, and indicates that she was born in 1896 and that her place of birth was Constantinople,² Turkey, which matches the information about the Power of Attorney Holder provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

² The CRT notes that prior to 1930 "Istanbul" was known as "Constantinople."

Account Owner Elvina Sinai

The CRT notes that the Claimants did not identify Account Owner Elvina Sinai.³

The CRT notes that there are no claims to these accounts.

Status of the Account Owners as a Victims of Nazi Persecution

The Claimants have made a plausible showing that Account Owners Heskiya and Eugenie Cohen were Victims of Nazi Persecution. The Claimant stated that Account Owners Heskiya and Eugenie Cohen, were Jewish, and that they resided in Italy until 1939, when they fled Europe to escape persecution. As noted above, a person named Eugenie Cohen was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to Account Owners Heskiya and Eugenie Cohen, by submitting specific information and documents, demonstrating that Account Owners Heskiya and Eugenie Cohen, were the Claimants' parents. These documents include Claimant [REDACTED 1]'s passport, identifying his father as Heskiya Cohen and indicating that he was born on 23 February 1921 in Istanbul; a notarized document certifying that Enrique Cohen was born on 15 April 1897 in Istanbul and that his wife, Eugenia Sinai Cohen was born on 10 June 1896 in Istanbul and; the birth certificates of [REDACTED 3], [REDACTED 5], [REDACTED 6], and [REDACTED 4], identifying their parents as Hezkia (Enrique) and Eugenia Cohen, née Sinai; Claimant [REDACTED 2]'s certificate of nationality, identifying his parents as Heskiya and Eugenia Cohen. There is no information to indicate that the Account Owners have other surviving heirs other than the parties Claimant [REDACTED 2] is representing.

The Issue of Who Received the Proceeds

With respect to the demand deposit account in Pounds Sterling, given that the account was closed on 16 September 1938 when the demand deposit account in United States Dollars was opened, the CRT concludes that Account Owner Heskiya Cohen closed the account and received the proceeds.

With respect to the safe deposit box closed in March 1944, at this time, according to information provided by the Claimants, Account Owner Eugenie Cohen was outside Nazi-dominated territory. However, given that Bank I's records do not indicate to whom the safe deposit box was closed, that the Account Owners fled from Italy in 1939 to escape persecution; that the Account Owners fled their country of origin due to Nazi persecution, that Account Owner Eugenie Cohen may have had relatives remaining in her country of origin and that she may therefore have yielded to Nazi pressure to turn over her account to ensure their safety; that the

³ Given that the Claimants provided substantial unpublished information about Account Owners Heskiya and Eugenie Cohen, the CRT finds their inability to identify Account Owner Elivina Sinai is immaterial to the overall identification of the Account Owners.

Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (a)(ii), (h) and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holder 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.

With respect to the demand deposit account and account of unknown type closed at an unknown date, given that that Italy formed an alliance with Germany on 25 October 1936; that Italy, under pressure from the Nazi regime, enacted anti-Jewish legislation on 29 May 1938; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (a)(ii), (h) and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holder 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 Owners Heskiya and Eugenie Cohen were their parents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Heskiya Cohen held one demand deposit account in United States Dollars and one custody account at Bank I and a bank account of unknown type at Bank II. Account Owner Eugenie Cohen held one safe deposit box at Bank I. The Banks' records do not indicate the value of these accounts. Pursuant to Article 29 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 current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs, a custody account was 13,000.00 Swiss Francs (SF), a safe deposit box was SF 1,240.00 and an account of unknown type was SF 3,950.00. The current value of this amount is

calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 254,125.00.

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. In this case, Claimant [REDACTED 2] is representing his siblings: [REDACTED 3], [REDACTED 4], [REDACTED 5] and [REDACTED 6]; his brother, Claimant [REDACTED 1], is representing himself. Accordingly, Claimants [REDACTED 1], Claimant [REDACTED 2] and each party represented by Claimant [REDACTED 2] are entitled to one-sixth (1/6) 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
8 August 2004