

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2],
also acting on behalf of [REDACTED 3] and [REDACTED 4]

in re Account of Eugen Cohn

Claim Numbers: 001320/BW; 215550/BW

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Eugen Cohn (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. 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

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal uncle, Eugen Cohn, who was born on 13 May 1881 in Danzig, Germany, and was married in approximately 1920 to [REDACTED], née [REDACTED], formerly [REDACTED]. Claimant [REDACTED 1] indicated that [REDACTED] was a widow when she married Eugen Cohn, and that she had two daughters from her first marriage, [REDACTED] and [REDACTED]. Claimant [REDACTED 1] stated that Eugen and [REDACTED] had another daughter, [REDACTED]. According to Claimant [REDACTED 1], [REDACTED] owned a porcelain and household articles shop named *Danziger Nachfolger* in Marienwerder, Germany (now Kwidzyn, Poland), which Eugen Cohn managed and expanded after their marriage.

¹ In his Claim Form, the name of Claimant [REDACTED 1], as well as the names of some of his relatives, were provided only in Hebrew characters. For the purpose of this written decision, the CRT has transliterated these names into Latin characters.

Claimant [REDACTED 1] indicated that in the late 1920s or early 1930s, Eugen Cohn opened a second branch of the shop in Breslau, Germany (now Wroclaw, Poland).

Claimant [REDACTED 1] explained that Eugen Cohn and his family, who were Jewish, resided in Marienwerder, but that Eugen traveled to Breslau for a few months every year, often taking his family with him during the summer months. Claimant [REDACTED 1] stated that his late father, [REDACTED], told him that he visited Eugen Cohn in Breslau. According to Claimant [REDACTED 1], his uncle's businesses were greatly damaged during the Night of Broken Glass (*Kristallnacht*) pogrom in November 1938, and his was forced to sell the businesses to the Nazis in 1939. Claimant [REDACTED 1] further indicated that his uncle and his family fled to Berlin, Germany, where they resided from 1939 to 1943, when they were captured by the Nazis and deported to Auschwitz, where they perished.

In support of his claim, Claimant [REDACTED 1] submitted documents including: (1) a letter from a Berlin lawyer, dated in 1966, addressed to [REDACTED], regarding Eugen Cohn's family and business before the Second World War, indicating that the business was "aryanized" and that Eugen Cohn was deported from Berlin; (2) a notification of settlement from a government compensation office (*Entschädigungsamt*) in Berlin, dated in 1967, identifying [REDACTED] as one among seven heirs of Eugen Cohn, who was born in Danzig on 13 May 1881 and was presumed to have died on 8 May 1945; (3) an excerpt from a memorial book of the Jewish Community of Berlin, which shows that Eugen Cohn and [REDACTED], née [REDACTED], were deported from Berlin to Auschwitz in January 1943; and (4) Claimant [REDACTED 1]'s Israeli identification card, which indicates that his father is [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 5 April 1955 in Tel Aviv, Israel.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her paternal grandfather, Eugen Cohn, who was born on 12 November 1864 in Namslau, Germany, (now Namyslow, Poland) and was married to [REDACTED], née [REDACTED], in 1899 in Namslau. According to Claimant [REDACTED 2], the couple had three sons: [REDACTED], who was born in 1900 and died in 1962; [REDACTED], who was born in 1901 and died in 1978; and [REDACTED] (Claimant [REDACTED 2]'s father), who was born in 1910 and died in 1997.

Claimant [REDACTED 2] indicated that her grandfather, who was Jewish, was a physician and that he resided in Namslau before the Second World War. According to Claimant [REDACTED 2], her father, [REDACTED], studied in Zurich, Switzerland, at some time before the War. Claimant [REDACTED 2] further indicated that in the late 1930s her family, including her grandparents, fled Germany due to Nazi persecution. Claimant [REDACTED 2] indicated that her family resided in Zurich until approximately 1941, when they emigrated to the United States.

In support of her claim, Claimant [REDACTED 2] submitted documents including: (1) her father's birth certificate, indicating that [REDACTED] was born in 1910 in Namslau to Eugen and [REDACTED]; (2) her father's German residence certificate (*Heimatschein*), indicating that [REDACTED] was a resident of Breslau in 1935; (3) her parents' marriage certificate, dated in

July 1938 in Zurich, indicating that [REDACTED]'s father was Eugen Cohn; (4) Claimant [REDACTED 2]'s own birth certificate indicating that she was born in Zurich in 1940 to [REDACTED] and [REDACTED]; (5) her grandfather's death certificate, indicating that Eugen Cohn, a physician, who was born on 12 November 1864 in Namslau, died on 10 July 1944 in New York, New York, the United States.

Claimant [REDACTED 2] indicated that she was born on 2 February 1940 in Zurich. Claimant [REDACTED 2] is representing her brother, [REDACTED 3], who was born on 23 September 1944 in New York, and her cousin (the daughter of Eugen Cohn's son [REDACTED]), [REDACTED 4], née [REDACTED], who was born on 4 July 1931 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of a printout from the Bank's database and a letter from the Bank to the Account Owner. According to these records, the Account Owner was Eugen Cohn, who resided at Sonnenstrasse 21 in Breslau, Germany. The Bank's records indicate that the Account Owner held a demand deposit account, which was opened in 1939.

According to the Bank's letter to the Account Owner, which is dated 27 January 1939, the Swiss-Jewish Welfare Organization (*der Verband Schweizerischer Israelitischer Armenpflege*), located at Nüscherstrasse 35 in Zurich, Switzerland, deposited funds into the Account Owner's account for his use in emigrating from Germany. The letter indicates that the Swiss-Jewish Welfare Organization made deposits of 150.00 Swiss Francs ("SF"), 4.00 Pound Sterling, and 30.00 United States Dollars, for this purpose. Thus, according to the letter, the total amount deposited by the Swiss-Jewish Welfare Organization was SF 215.00 as of 27 January 1939. The letter further states that the Account Owner could only collect the funds after leaving Germany. The letter states that unless the Account Owner withdrew the money by 30 April 1939, it would revert to the Swiss-Jewish Welfare Organization.²

The Bank's records do not indicate the balance of the account; nor do they indicate whether the account contained funds in addition to those deposited by the Swiss-Jewish Welfare Organization. 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 Owner or his heirs closed the account and received the proceeds themselves.

² The Bank's letter states in relevant part:

Sofern Sie nicht bis spätestens am 30. April a.c., sei es an unserem Schalter, sei es am Schalter der gemäss Ziffer 1 zu bestimmenden Korrespondenzbank, über den Saldo Ihres Guthabens bei uns effektiv verfügt haben werden, oder falls uns Ihre Ableben durch Vorlegung amtlicher, gehörig beglaubigter Dokumente bewiesen wird, wird der Saldo Ihres Guthabens ohne weiteres wieder zur ausschliesslichen Verfügung des Verbandes Schweizerischer Israelitischer Armenpflege, Zürich, stehen.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly identified the Account Owner. Claimant [REDACTED 1]'s uncle's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 1] also indicated that his uncle resided seasonally in Breslau, which is the published city of residence of the Account Owner.

In support of his claim, Claimant [REDACTED 1] submitted a 1966 letter from a lawyer in Berlin, a 1967 notification of settlement from a government compensation office in Berlin, and an excerpt from a memorial book of the Jewish Community of Berlin, which provide independent verification that the person who is claimed to be the Account Owner had the same name and country of residence recorded in the Bank's records as the name and country of residence as the Account Owner. The CRT also notes that a database containing the names of victims of Nazi persecution includes a person named Eugen Cohn who was born in Danzig in 1881. This matches the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial in Israel.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly identified the Account Owner. Claimant [REDACTED 2]'s grandfather's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 2] indicated that her grandfather resided in Namslau. The CRT notes that Namslau (Namyslow) is a town in the district of the city of Breslau (Wroclaw), the capitol of Silesia, which is the Account Owner's published city of residence. The CRT further notes that the residence certificate submitted by Claimant [REDACTED 2] indicates that her father resided in Breslau. Given that Breslau was the regional capitol and the closest large city to Namslau (60 kilometers distant), and that Claimant [REDACTED 2]'s father resided in Breslau at one time, the CRT determines that it is plausible that Claimant [REDACTED 2]'s grandfather used Breslau as his place of residence in his correspondence with the Bank.

In support of her claim, Claimant [REDACTED 2] submitted her father's birth certificate, her parents' marriage certificate, and her grandfather's death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and

resided in the same country recorded in the Bank's records as the name and country of residence of the Account Owner. As mentioned above, Claimant [REDACTED 2] also submitted her father's Breslau residence certificate, showing a connection to the Account Owner's city of residence.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person, and that neither of the Claimants identified the Account Owner's unpublished street address. However, given that the Claimants have identified all published information about the Account Owner; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; and that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner; the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that his businesses were greatly damaged during the Night of Broken Glass (*Kristallnacht*) pogrom, that he was forced to sell the businesses to the Nazis, and that the Account Owner and his family were deported to Auschwitz, where they perished. Claimant [REDACTED 1] submitted a 1966 letter from a lawyer in Berlin, a 1967 notification of settlement from a government compensation office in Berlin, and an excerpt from a memorial book of the Jewish Community of Berlin, indicating that the Account Owner's business was "aryanized," and that he and his wife perished in Auschwitz. As noted above, a person named Eugen Cohn was included in the CRT's database of victims.

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] indicated that her grandfather, who was Jewish, resided in Nazi Germany until the late 1930s, when he fled with his family to Switzerland.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, including a 1967 notification of settlement from a government compensation office in Berlin and Claimant [REDACTED 1]'s Israeli identification card, demonstrating that the Account Owner was Claimant [REDACTED 1]'s uncle.

Claimant [REDACTED 2] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, including her own and her father's birth certificates and her parents' marriage certificate, demonstrating that the Account Owner was her grandfather.

The CRT notes that, according to the information provided by both Claimants, the Account Owner may have other surviving relatives, but that because they are not represented in the

Claimants' claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The letter in the Bank's records states that if the Account Owner did not withdraw certain funds from the account by 30 April 1939, those funds would revert to the Swiss-Jewish Welfare Organization. However, there is no indication that these funds constituted the entire balance of the account. Additionally, given that there is no record of either the payment of the Account Owner's account to him or the transfer of the proceeds of the account back to the Swiss-Jewish Welfare Organization, nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his 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) 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 Owner or his 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his uncle, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her grandfather, and these relationships justify an Award. Finally, the CRT 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

In this case, the Account Owner held one demand deposit account. The Bank's records show deposits made to the account amounting to SF 215.00 as of 26 January 1939. However, as mentioned above, there is no indication that these funds constituted the entire balance of the account. 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 SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to half of the award amount, and Claimant [REDACTED 2] and the parties she represents entitled to share the other half of the award amount, which is divided below in accordance with the Rules.

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. Accordingly, as the children of one of the Account Owner's children, Claimant [REDACTED 2] and represented party [REDACTED 3] are each entitled to one-eighth of the total award amount; and represented party [REDACTED 4], as the child of another of the Account Owner's children, is entitled to one-fourth 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
21 December 2007