

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Accounts of Egon Ehrenstein and Selma Ehrenstein

Claim Numbers: 770693/AE;¹ 601278/AE²

Award Amount: 600,743.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the published account of Egon Ehrenstein and upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished accounts of [REDACTED].³ This Award is to the unpublished accounts of Egon Ehrenstein (“Account Owner Egon Ehrenstein”) and to the unpublished account held jointly by the Account Owner and Selma Ehrenstein (“Account Owner Selma Ehrenstein”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).⁴

¹ [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted two Initial Questionnaire (“IQs”), numbered ENG-0025133 and ENG-0262107, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires that can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim number 770693 and 776861. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 770693.

² [REDACTED 2] submitted a claim, numbered B-01627 on 29 January 2001 to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601278.

³ The CRT did not locate an account belonging to the Claimants’ relatives, Egon Ehrenstein or [REDACTED], in the Account History Database, prepared pursuant to the investigation of the Independent Committee of Eminent Persons (ICEP or ICEP Investigation), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the Rules). However, an account belonging to Egon Ehrenstein was included in the list published as Official Notification by the World Jewish Congress: List of Known Swiss Bank Accounts, a non-exhaustive list of foreign accounts held at the New York Agency of the Swiss Bank Corporation as of 14 June 1941. The Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information they provided or upon information from other sources.

⁴ The CRT notes that, on the list published as Official Notification by the World Jewish Congress: List of Known Swiss Bank Accounts, Egon Ehrenstein is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records provided by the HCPO evidence the existence of two additional accounts, one of which was owned jointly with Selma Ehrenstein.

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

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) with the Court in 1999 identifying Account Owner Egon Ehrenstein as his cousin, Egon Ehrenstein, who was born in the 1890s and resided in Bucharest, Romania, and Account Owner Selma Ehrenstein as Egon Ehrenstein’s wife, who was born in the 1880s and who died approximately in 1963. Claimant [REDACTED 2], who is Claimant [REDACTED 1]’s sister, submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying her father, [REDACTED], as the owner of assets deposited in Swiss banks. Claimant [REDACTED 2] indicated that her father was born on 4 February 1877 in Skalica, Czechoslovakia. Claimant [REDACTED 1] indicated that Egon Ehrenstein was the son of their father’s brother, [REDACTED]. Claimant [REDACTED 1] indicated that Egon and Selma Ehrenstein had no children. According to Claimant [REDACTED 1], Egon and Selma Ehrenstein, who were Jewish, managed to survive the Second World War in Romania, where they remained after the War. Claimant [REDACTED 1] stated that his cousin and his cousin’s father lost everything under Romania’s communist dictatorship.

In support of their claims, the Claimants submitted a copy of Claimant [REDACTED 2]’s birth certificate, indicating her name as [REDACTED 2], and her father as [REDACTED]; a copy of Claimant [REDACTED 1]’s birth certificate, indicating his name as [REDACTED 1], and his father as [REDACTED]; a detailed family tree, indicating that Egon Ehrenstein was their cousin; letters from [REDACTED], addressed to Claimant [REDACTED 1], one of which indicates Egon Ehrenstein’s address in Bucharest; a letter from Egon Ehrenstein addressed to Claimant [REDACTED 1]; and correspondence with the HCPO, which is more fully detailed below.

On 3 August 2005, the HCPO forwarded an account card for assets held by the Account Owner at the London branch of the Bank that had been confiscated as enemy property, as well as a decision, dated 17 January 2003, regarding the Claimants’ claim to these assets, from the Enemy Property Claims Assessment Panel (“EPCAP”). In that decision, the EPCAP Panel recognized that the owner of the assets was the Claimants’ relative, but declined to award them the assets, because another family member, Mr. [REDACTED], had a closer family relationship to the original owner. According to the reasons supporting the EPCAP decision, [REDACTED]’s father was Egon Ehrenstein’s brother. According to these documents, in 2003, [REDACTED] resided in Vienna, Austria.

Claimant [REDACTED 1] indicated that he was born on 17 February 1918 in Vienna, and Claimant [REDACTED 2] indicated that she was born on 5 June 1923, also in Vienna.

Information Available in the Bank’s Records

The CRT notes that 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 investigate the New York branch of the Bank, nor did the auditors report an account belonging to Egon Ehrenstein. The information about these accounts was obtained by the HCPO and forwarded to the CRT.

The documents forwarded to the CRT include a list of accounts blocked in the 1941 US Freeze of Swiss assets (the “1941 Freeze”),⁵ account cards, account ledgers, and correspondence between the Bank and a New York law firm regarding one of Account Owner Egon Ehrenstein’s accounts. According to these records, Account Owner Egon Ehrenstein was Egon Ehrenstein, who resided at Boulevard Bratianu 35 in Bucharest, Romania, and Account Owner Selma Ehrenstein was Selma Ehrenstein of Bucharest. These records indicate that Account Owner Egon Ehrenstein held one account of unknown type, numbered F.F. 1045, and one demand deposit account, numbered H.E. 8107/10107. The Bank’s records do not indicate when these accounts were opened. With regard to account numbered F.F. 1045, the Bank’s records do not indicate the value of the account, but do indicate that it was closed on 2 December 1940. With regard to account H.E. 8107/10107, one page of the Bank’s records indicates that this account was held jointly by the Account Owners, while all other references to the account indicate that it was held solely by Account Owner Egon Ehrenstein. The Bank’s records indicate that account H.E. 8107/10107 had a balance of 9,317.75 United States Dollars (“US \$”) when it was frozen on 14 June 1941. The records indicate that this account was closed on 17 May 1960.

The Bank’s records further indicate that the Account Owners jointly held one account of unknown type, numbered 18154. The records do not indicate when this account was opened or the value of the account, but they do indicate that it was closed on 17 September 1949.

There is no evidence in the Bank’s records that the Account Owners or their heirs closed the accounts 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.

⁵ During the Second World War, the United States government froze certain foreign assets located in the United States, under the powers of the Trading with the Enemy Act of 1917 (50 U.S.C. App.). On 14 June 1941, President Roosevelt extended freezing controls to cover all of continental Europe (the “1941 Freeze”). Executive Order 8785 Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of All Foreign-Owned Property, and Related Matters (6 Fed. Reg. 2897). *See* PLUNDER & RESTITUTION: THE U.S. & HOLOCAUST VICTIMS’ ASSETS, Staff Report of the Presidential Advisory Commission on Holocaust Assets in the United States, SR-44 (United States Government Printing Office, 2000) (“PLUNDER & RESTITUTION”), available at <http://www.pcha.gov>.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owners. The Claimants submitted letters from Egon Ehrenstein's father, [REDACTED], addressed to Claimant [REDACTED 1], one of which indicates Egon Ehrenstein's address in Bucharest; and a letter from Egon Ehrenstein addressed to Claimant [REDACTED 1]. These documents provide independent verification that the person who is claimed to be Account Owner Egon Ehrenstein had the same name and resided in the same city as the Account Owner, as indicated in the Bank's records provided by the HCPO. Furthermore, Claimant [REDACTED 1] identified the unpublished Account Owner Selma Ehrenstein, who jointly held at least one account with Account Owner Egon Ehrenstein. The CRT 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 indicated that the Account Owners were Jewish, and that they lived in Nazi-allied Romania during the Second World War.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information, demonstrating that the Account Owners were their cousin and his wife. The Claimants submitted a copy of Claimant [REDACTED 2]'s birth certificate, indicating her name as [REDACTED 2], and her father as [REDACTED]; a copy of Claimant [REDACTED 1]'s birth certificate, indicating his name as [REDACTED 1], and his father as [REDACTED]; a detailed family tree, indicating that Egon Ehrenstein was their cousin; letters from [REDACTED], addressed to Claimant [REDACTED 1], one of which indicates Egon Ehrenstein's address in Bucharest; and a letter from Egon Ehrenstein addressed to Claimant [REDACTED 1]. These documents provide independent verification that the Claimants' relatives bore the same family name as the Account Owners, and support the plausibility that the Claimants are related to the Account Owners, as they have asserted in their Claim Forms. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimants as family members, and all of this information supports the plausibility that the Claimants are related to the Account Owners, as they have asserted in their Claim Forms. The CRT notes that, according to the 2003 EPCAP decision, [REDACTED], who is Account Owner Egon Ehrenstein's nephew, is alive and lives in Vienna. However, the CRT has not received any claims from him or from any other relatives of the Account Owners.

The Issue of Who Received the Proceeds

The Bank's records indicate that Account Owner Egon Ehrenstein held one account of unknown type, numbered F.F. 1045, and one demand deposit account, numbered H.E. 8107/10107, and that the Account Owners jointly held one account of unknown type, numbered 18154. According to the Bank's records, account F.F. 1045 was closed on 2 December 1940, account

18154 was closed on 17 September 1949, and account H.E. 8107/10107 was frozen on 14 June 1941, and was closed on 17 May 1960.

Given that the Account Owner resided in Nazi-allied Romania and remained in Communist Romania following the War until his death in approximately 1963, which is after after the US unblocked Rumanian accounts on April 20, 1960; that the account held in London and frozen by the UK authorities was not claimed until 2003; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about the 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account was 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two accounts of unknown type and one demand deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case with accounts numbered 18154 and F.F. 1045, 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 investigation carried out pursuant to the instructions of ICEP, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs ("SF"), for a combined balance of SF 7,900.00 for these two accounts. 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 an award amount of SF 98,750.00.

With respect to the demand deposit account numbered H.E. 8107/10107, the Bank's records indicate that the value of the account as of 14 June 1941 was US \$9,317.75, which was equivalent to SF 40,159.50.⁶ 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, to produce an award amount of SF 501,993.75.

Consequently, the total award amount in this case is SF 600,743.75.

⁶ In converting the account balance to Swiss Francs, the CRT uses official exchange rates.

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the Award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimants are the cousins of the Account Owner. Accordingly, the Claimants are each entitled to one-half of the total award amount.

As noted above, the CRT is aware that the Claimants have a cousin, [REDACTED], who is a descendant of Account Owner Egon Ehrenstein's parents. According to Article 23(1)(d) of the Rules, had [REDACTED] filed a claim, he would have been entitled to the entire 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 his claim to determine whether there are additional Swiss bank accounts to which he 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
31 August 2005