

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Sally Eichengrün and Julie Eichengrün

Claim Number: 203957/AX

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the accounts of Sally Eichengrün. This Award is to the published accounts of Sally Eichengrün (“Account Owner Sally Eichengrün”) and Julie Eichengrün (“Account Owner Julie Eichengrün”) (together the “Account Owners”) at the Zurich 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 Claimant

The Claimant submitted a Claim Form identifying Account Owner Sally Eichengrün as her uncle, Sally Eichengrün, who was married to [REDACTED], née [REDACTED], and who was the brother of the Claimant’s mother, [REDACTED], née [REDACTED]. The Claimant indicated that her uncle, who was Jewish, was a businessman and a German citizen. In a telephone conversation with the CRT on 28 May 2002, the Claimant stated that her uncle resided in Arnsberg, Westphalia, Germany and that he fled Germany for Argentina in 1938, where he later died. The Claimant also indicated that her aunt was Juliana Eichengrün, but that the Claimant referred to her as “Tante Jülchen.” In support of her claim, the Claimant submitted her German passport, and her birth certificate and her mother’s passport, which both indicate her mother’s maiden name was [REDACTED] and that the family was from Germany. The Claimant indicated that she was born on 13 January 1922 in Oeventrop, Germany. The Claimant is representing [REDACTED 2], her son, who was born on 5 October 1944 in Buenos Aires, Argentina.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, and an ATAG Ernst & Young claim form in 1998 asserting her entitlement to a Swiss bank account owned by her father, [REDACTED].¹

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were Sally Eichengrün and *Frau* (Mrs.) Julie Eichengrün, both of whom resided in Munich, Germany. The Bank's record indicates that the Bank was notified of Account Owner Julie Eichengrün's death on 23 February or July 1935 (the precise date of notification is not clearly legible).

The Bank's record indicates that the Account Owners held one custody account, numbered L 53330, and one demand deposit account. According to the Bank's record, the demand deposit account was opened on 30 November 1934 and closed on 10 March 1935, and the custody account was opened on 1 December 1934 and closed on 11 November 1936. The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's record that Account Owner Sally Eichengrün or the Account Owners' heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owners. The Claimant's uncle's name and country of residence match the published name and country of residence of Account Owner Sally Eichengrün. The Claimant identified that her aunt's name was Juliana Eichengrün, which matches unpublished information about the name of Account Owner Julie Eichengrün.² The CRT notes that the Claimant stated that Sally Eichengrün resided in Arnsberg, while the Bank's record indicates that the Account Owners resided in Munich. Although these cities are not within close proximity to one another, the CRT finds it plausible that the address in the Bank's record could refer to Account Owner Julie Eichengrün, and not to Account Owner Sally Eichengrün.

In support of her claim, the Claimant submitted her birth certificate and her mother's passport, which both indicate her mother's maiden name was [REDACTED], and that they were from Germany providing independent verification that family members of the persons who are claimed to be the Account Owners had the same last name and are from the same country recorded in the Bank's records as the last name and country of residence of the Account Owners.

¹ The CRT will treat the claims to this account in a separate decision.

² The CRT notes that the Claimant identified her aunt's name as Juliana Eichengrün, while the Bank's record indicates that the name of the previous Account Owner was Julie Eichengrün, but finds that this minor discrepancy does not affect the Claimant's identification of the Account Owner.

Finally, the CRT notes that the one other claim to these accounts was disconfirmed due to inconsistent date information provided by that claimant. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner Sally Eichengrün was a Victim of Nazi Persecution. The Claimant stated that Account Owner Sally Eichengrün was Jewish, and that he was forced to flee from Nazi Germany to Argentina in 1938. The Bank's records indicate that it was notified of Account Owner Julie Eichengrün's death in 1935.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner Sally Eichengrün by submitting specific information and documents, demonstrating that the Account Owner Sally Eichengrün was the Claimant's maternal uncle.³ These documents include the Claimant's birth certificate and the Claimant's mother's passport both indicating that the Claimant's mother's maiden name was [REDACTED]. The CRT further notes that the Claimant identified unpublished information, the name of Account Owner Julie Eichengrün, as contained in the Bank's records, and this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her Claim Form. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that Account Owner Sally Eichengrün remained in Germany until 1938 when he fled to Argentina, and would not have been able to repatriate his account to Germany without its confiscation; that there is no record of the payment of the Account Owner's accounts to them; 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 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,⁴ 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.

³ According to Article 25 (2), in cases where the Joint Account is claimed by relatives of only one or some of the Joint Account Owners, it shall be presumed that the Account was owned as a whole in equal shares by the Account Owners whose shares of the Account have been claimed. In the present case, the Claimant is claiming only the account of Sally Eichengrün.

⁴ Appendix C appears on the CRT II website -- www.crt-ii.org.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner Sally Eichengrün was her uncle, and that a relationship justifies 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 accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs and the average value of a custody account was 13,000.00 Swiss Francs. Thus, the total 1945 average value of the accounts at issue was 15,140.00 Swiss Francs. 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 189,250.00 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 Owners who have submitted a claim, in equal shares by representation. The Claimant is representing her son, [REDACTED 2], in these proceedings. As the Claimant is a direct descendant of the Account Owner Sally Eichengrün, and a closer relative of the Account Owner than her son, the Claimant is entitled to receive the entire award amount.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she 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
28 May 2004