

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Dr. Kurt Feuer
also acting on behalf of Zvi-Herbert Feuer and Naomi Feuer

**in re Accounts of Nathan Eiding, Max Ausnit, *Cottage Sanatorium,*
and *Lujani Zuckerfabrik***

Claim Numbers: 000338/HB; 721111/HB¹

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claims of Dr. Kurt Feuer (the “Claimant”) to the accounts of Nathan Eiding, Dora Eiding, and Chaja-Berta Eiding.² This Award is to the unpublished account of Nathan Eiding (“Account Owner Eiding”), Max Ausnit (“Account Owner Ausnit”), *Cottage Sanatorium* (“Account Owner *Sanatorium*”), and *Lujani Zuckerfabrik* (“Account Owner *Zuckerfabrik*”) (together “the Account Owners”) at the [REDACTED] (“Bank I”), and to the unpublished account of Account Owner Eiding at the Zurich branch of the [REDACTED] (“Bank II”) (together “the Banks”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire (“IQ”) identifying Account

¹ In 1999, Kurt Feuer (the “Claimant”) submitted an Initial Questionnaire (“IQ”), numbered HEB-0265099, 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 which 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 IQ was forwarded to the CRT and has been assigned claim number 721111.

² The CRT did not locate an account belonging to Dora Eiding 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”). In a separate decision, the CRT awarded the accounts of Berta Eiding and N. Eiding to the Claimant. See *In re Accounts of Berta Eiding and N. Eiding* (approved on 8 April 2004).

Owner Eidinge as his late wife's uncle by marriage, Nathan Eidinge.³ The Claimant indicated that Natan Eidinge, who was born on 5 August 1879 in Romania, was married to Berta Chaja Eidinge, née Fischler, the Claimant's wife's paternal aunt. The Claimant stated that his wife's aunt and uncle lived in Vienna, Austria, and that they had one daughter, Dora Eidinge, who was born on 7 August 1905 in Radaici, Romania, and who never married and had no children.

The Claimant explained that sometime between 1941 and 1944, his wife's aunt and uncle and their daughter, who were Jewish, fled Austria to Zurich, Switzerland, where they lived at 78 Platenstrasse. The Claimant further explained that Nathan Eidinge died on 13 March 1945 and that Berta Chaja Eidinge died on 19 October 1964, both in Switzerland, and that their daughter, Dora, died on 20 October 1990, also in Switzerland.

The Claimant indicated that he was married to Kaette Serafina Feuer, née Fischler, and that she and her brother Jacob Fischler were acknowledged as the sole heirs of Dora Eidinge. The Claimant indicated that his wife died on 2 February 1994 in Petach Tikva, Israel.

In support of his claim, the Claimant submitted various documents, including: 1) a notice published by the Zurich court to the heirs to the estate of Dora Eidinge, who was the daughter of Berta Eidinge and Nathan Eidinge, who was born on 5 August 1879 and died on 13 March 1945; 2) an application by the Claimant's wife, Kaette Serafina Feuer, to be recognized as Dora Eidinge's heir; and 3) the death certificate and will of the Claimant's wife, in which the Claimant was appointed as Kaette Serafina Feuer's sole heir. The Claimant also submitted his own identity card from the Transnistria concentration camp, where his family had been deported.

The Claimant indicated that he was born on 11 November 1927 in Cernowitz, Romania. The Claimant is representing his son, Zvi-Herbert Feuer, who was born on 26 June 1958 in Romania, and his daughter, Naomi Feuer, who was born on 24 October 1964 in Israel.

Information Available in the Banks' Records

Bank I

Bank I's records consist of three customer cards dated 1938. According to these records, the Account Owners were Nathan Eidinge; Max Ausnit, who resided in Bucharest, Romania; *Cottage Sanatorium* in Vienna, Austria; and *Lujani Zuckerfabrik AG* in Lujani, Romania. Bank I's records indicate that the Account Owners jointly held a numbered account, the type of which is not indicated, numbered 3633. The documents do not indicate the value of the account or its disposition.

³ The CRT notes that the Claimant provided some of his relatives' names only in Hebrew characters in his Claim Form and IQ. For the purpose of this written decision, the CRT has transliterated these names into Latin characters. However, to match names provided in the Claim Form with names contained in the banks' databases, the CRT has used a database created by Yad Vashem, Israel, which provided different variations in Latin characters for each of the names.

Bank II

The CRT notes that the auditors who carried out the investigation of Bank II 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 report an account belonging to Nathan Eidinge during their investigation of Bank II. The documents evidencing an account belonging to Nathan Eidinge were obtained from the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (“the 1962 Survey”). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Nathan Eidinge, numbered 650.

These records indicate that Account Owner Eidinge was Nathan Eidinge. The records do not indicate Account Owner Eidinge’s domicile. According to these records, the Account Owner held an account at Bank II, the type of which is not indicated, with a value of 117.00 Swiss Francs (“SF”) as of 1 September 1963. The records do not contain information about the disposition of this account.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Nathan Eidinge, numbered 35417. The records indicate that Nathan Eidinge was Jewish, was born on 18 December 1878, resided in Schubertring 3 in Vienna I, had an additional address in Zurich, and was married to Bertha Eidinge, née Fischler, who was also Jewish. The records further indicate that he owned bank accounts and securities in Vienna and Romania, as well as various assets. These records, however, make no mention of assets held in a Swiss bank account.

Information Obtained by the CRT

Through independent research completed by the CRT, additional information was found concerning Nathan and Berta Eidinge and the *Cottage Sanatorium*. In an online article entitled, *Unser Wien: Arisierung auf Österreichisch*, Tina Walzer includes information about Nathan and

Berta Eidinger and the *Cottage Sanatorium*.⁴ This information indicates that Nathan Eidinger was the President of the *Cottage Sanatorium*, which was located at Sternwartestrasse 74 in Vienna, Austria, until he was forced to give up his share of the business. According to Walzer, Nathan and Berta Eidinger, who were originally from Hungary, lived at Schubertring 3 in Vienna I until 1938, when they emigrated to Switzerland together with their daughter.

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 Claimant in one proceeding.

Identification of Account Owner Eidinger

The Claimant's wife's uncle's name matches the unpublished name of Account Owner Eidinger. The CRT notes that the Banks' records do not contain any specific information about Account Owner Eidinger other than his name.

In support of his claim, the Claimant submitted a notice published by the Zurich court to the heirs of Dora Eidinger, providing independent verification that the person who is claimed to be Account Owner Eidinger had the same name recorded in the Banks' records as the name of Account Owner Eidinger.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Nathan Eidinger and indicates that his place of birth was Radautz and that he resided in Vienna, which matches the information about Account Owner Eidinger provided by the Claimant. The database also includes a person named Dora Eidinger, and indicates that she was born on 7 August 1905 in Radautz and resided in Vienna, which also matches the information about Account Owner Eidinger's daughter provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Dora Eidinger, in which he identified Account Owner Eidinger as her father, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his 2001 claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative,

⁴ See http://www.david.juden.at/kulturzeitschrift/50-54/Main%20frame_Artikel51_Walzer.htm. See also Tina Walzer and Stephan Templ. *Unser Wien. "Arisierung" auf Oesterreichisch [Our Vienna. Austrian for "Aryanization"]*. Berlin: Aufbau-Verlag, 2001.

but rather on a direct family relationship that was known to him before the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the Claimant did not identify Account Owner *Sanatorium*, Account Owner Ausnit, or Account Owner *Zuckerfabrik*. However, the CRT notes that the Claimant identified information about the Account Owner included in the article *Unser Wien*, and that article indicates that Account Owner Eidinger was president and owner of Account Owner *Sanatorium*. Furthermore, the Claimant's relationship to Account Owner Eidinger is through his late wife, and there is no indication in Bank I's records that the Account Owners were related. The CRT therefore determines that it is plausible that the Claimant would not know the names of all of his late wife's uncle's acquaintances, businesses, and business associates, and that the Claimant's failure to identify Account Owner *Sanatorium*, Account Owner Ausnit, and Account Owner *Zuckerfabrik* does not adversely affect the plausibility of his identification of Account Owner Eidinger.

The CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Eidinger.

Status of Account Owner Eidinger as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Eidinger was a Victim of Nazi Persecution. The Claimant stated that Account Owner Eidinger was Jewish, that he fled Austria due to Nazi persecution, and that he died on 13 March 1945. As noted above, a person named Nathan Eidinger was included in the CRT's database of victims. Furthermore, the article *Unser Wien* indicates that Nathan Eidinger was forced to give up his ownership in the *Cottage Sanatorium* in Vienna. The CRT notes that Account Owner Eidinger was required to register his assets pursuant to the 1938 Census.

The Claimant's Relationship to Account Owner Eidinger

The Claimant has plausibly demonstrated that he is related to Account Owner Eidinger by submitting documents and specific information demonstrating that his late wife was the niece of Account Owner Eidinger. These documents include a notice published by the Zurich court to the heirs to the estate of Dora Eidinger, indicating that her father was Nathan Eidinger; an application by the Claimant's wife to the court to be recognized as Dora Eidinger's heir; and the death certificate and will of Kaette Serafina Feuer, in which the Claimant was appointed as her sole heir. There is no information to indicate that Account Owner Eidinger has other surviving heirs except for the Claimant, the parties which the Claimant is representing in these proceedings, and his late wife's brother, Jacob Fischler, who did not submit a claim the CRT, and whose entitlement is therefore not considered here.

The Issue of Who Received the Proceeds

With regard to the account at Bank I, the records do not indicate the disposition of the account. With regard to the account at Bank II, the records indicate that the account was reported in the 1962 Survey, which demonstrates that the account still existed as of that date, 17 years after the

death of the Account Owner in 1945. The records provide no further information as to the disposition of this account.

With regard to both accounts, given that Account Owner Eidingler fled Austria due to the rise of Nazi persecution and died on 13 March 1945, that Account Owner Eidingler's only child was also a Victim of Nazi Persecution, as evidenced by the Austrian State Archives concerning the assets of Nathan Eidingler; that research indicates that Account Owner Eidingler was forced to give up his share in *Cottage Sanatorium*, which was also listed as an account owner; that there is no record of the payment of the Account Owners' accounts to them nor any record of a date of closure of the accounts; that Account Owners Eidingler and his heirs would not have been able to obtain information about his accounts after the Second World War from the Banks 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), (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 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 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 Account Owner Eidingler was the uncle of his late wife, and that relationship justifies an Award. Third, 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

With respect to Bank I, in this case, the Account Owners held an account of an unknown type. 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 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 an award amount of SF 49,375.00 for this account.

With respect to Bank II, in this case, Account Owner Eidingler held one account of unknown type. The records of the Swiss National Archive indicate that the value of the account as of 1 September 1963 was SF 117.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects numbered account fees and standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 402.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 an award amount of SF 49,375.00 for this account.

Consequently, the total award amount for both accounts is SF 98,750.00.

Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a claim of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. In this case, the Claimant, who represents his children Zvi-Herbert Feuer and Naomi Feuer, submitted his wife's will, indicating that he is her sole heir. The Claimant further stated that his wife and her brother were recognized by a Swiss court as the heirs of Account Owner Eidinger's only child, Dora Eidinger. Under the general principles established in Article 23(1), it is presumed that Dora Eidinger would have inherited the sole right to her father's assets, including the account, upon her mother's death in 1964. Consequently, the Claimant, who is by extension Account Owner Eidinger's heir, is entitled to the total award amount. The Claimant's children, who were not named in their mother's will, are not entitled to a division of the Award. The CRT notes that the Claimant's late wife, the Claimant, and the represented parties are all related to Account Owner Eidinger only by marriage, and that the Claimant's children therefore do not have a closer relationship to Account Owner Eidinger under the Rules.

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 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
26 November 2008