

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ernst Michael Eisner, represented by Santiago Sologueren Paz

in re Accounts of Ernst Eisner

Claim Number: 300764/AX

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Ernst Michael Eisner (the “Claimant”) to the published accounts of Ernst Eisner (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 identifying the Account Owner as his paternal grandfather, Ernst Eisner, who was born in Germany, and was married to Luise Eisner, née Zeidler. According to the Claimant, the couple had two sons: Walter Julius Eisner, who was born on 20 July 1909 in Berlin, Germany, and the Claimant’s father, Werner Günther Eisner, who was born on 25 August 1920 in Breslau, Germany. The Claimant indicated that his grandfather owned three cinemas and a film import/export and distribution business. The Claimant further indicated that his grandfather owned real estate in several German cities, namely Berlin, Breslau, and Leipzig, and probably resided in one of those cities. The Claimant also stated that his grandfather traveled extensively, especially to Switzerland for business. According to the Claimant, his grandfather, who was Jewish, was killed by the Nazis shortly after they came to power in 1933. The Claimant added that his father named him in memory of his grandfather. The Claimant indicated that Walter Julius Eisner died in November 1978 in Landstuhl, Germany, and that Werner Günther Eisner died on 23 May 2001 in Cochamba, Bolivia. In support of his claim, the Claimant submitted his birth certificate, indicating he was born in Berlin, and that his father was Werner Günther Eisner, copies of his father’s and uncle’s passports, which indicate that his uncle was born in Berlin and his father was born in Breslau, and pictures of his grandfather. The Claimant indicated that he was born on 17 August 1946 in Fürth im Wald, Germany.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was *Dir.* (Director) Ernst Eisner who resided in Berlin-Schöneberg, Germany. The Bank’s

record indicates that the Account Owner held a demand deposit account, which was opened on 20 June 1927, and a custody account, numbered L 32708, which was opened on 30 September 1928. The demand deposit account was closed on 20 March 1935, and the custody account was closed on 25 March 1935. The Bank's record does not indicate the value of these accounts. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name and country of residence match the published name and country of residence of the Account Owner. The Claimant indicated that his grandfather owned real estate in several German cities, including Berlin, and that his uncle Walter Julius Eisner was born in Berlin, which is consistent with unpublished information about the Account Owner's residence contained in the Bank's record. In addition, the CRT notes that the Claimant indicated that his grandfather owned three cinemas and a film import/export business, which is consistent with the unpublished title of director that the Account Owner held. The CRT further notes that the Claimant bears the same name as the Account Owner, as he indicated he was named after his deceased grandfather. In support of his claim, the Claimant submitted his uncle's passport, indicating that he was born in Berlin, providing independent verification that the person who is claimed to be the Account Owner resided in the same town recorded in the Bank's record as the city of residence of the Account Owner. The CRT further notes that the other claims to this account were disconfirmed because one claimant provided a different country of residence than the country of residence of the Account Owner, and because the other claimant provided a different city of residence than the city of residence of the Account Owner and indicated a profession that is inconsistent with the Account Owner's title. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and was killed by the Nazis in 1933.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's grandfather. The CRT notes that the Claimant identified unpublished information about his grandfather as contained in the Bank's record. The CRT further notes that the Claimant submitted his birth certificate, and copies of the passports of his father, Werner Günther Eisner, and his uncle, Walter Julius Eisner, which provide independent verification that the Claimant and his relatives bore the family name Eisner and resided in the same country as the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933 the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population in Germany through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner was killed by the Nazis shortly after they came to power; that the account was closed in 1935; 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 his 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; 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) and Appendix C,¹ 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 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 was his grandfather, and that relationship justifies 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 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 is 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.

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).

¹ Appendix C appears on the CRT II website -- www.crt-ii.org.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal