

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Ernst Eisner¹

Claim Number: 216103/AX

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the published account of Ernst Eisner (the "Account Owner") at the Zurich branch of the [REDACTED] (the "Bank").²

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 the Account Owner as his father, Ernst (Ernesto) Alfred Eisner, who was born on 9 February 1903 in Breslau, Germany, and was married, first to [REDACTED], née [REDACTED], in 1930 in Breslau, and then to the Claimant's mother, [REDACTED], née [REDACTED], on 14 February 1952 in Santos, Brazil. The Claimant indicated that his father, who was Jewish, studied law and was an accountant/bookkeeper in Breslau until 1936. According to the Claimant, his father fled Nazi Germany to Venice, Italy, where he resided from 1936 to 1937, after which he fled to Brazil. The Claimant indicated that his father died on 17 June 1986 in Israel. In support of his claim, the Claimant submitted his parents' marriage certificate and his father's certificate of naturalization, both indicating that Ernst Eisner was born in Breslau; his father's death certificate, indicating that Ernesto Eisner was Jewish; a court decision from Berlin, Germany, indicating that Ernst Eisner was divorced from [REDACTED], that he was Jewish and that he was from Breslau; his father's

¹ The CRT notes that in his Claim Form the Claimant claimed the published accounts belonging to Ernst Eisner of Venice, Italy, and the published accounts of Ernst Eisner of Germany. The CRT further notes that this Award is to the accounts of Ernst Eisner of Venice, Italy, and that the CRT will treat the claim to the accounts of Ernst Eisner of Germany in a separate decision.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), Ernst Eisner of Venice is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of only one account.

birth certificate indicating that he was born in Breslau and that he was Jewish; his father's German driver's license issued in Breslau and containing the signature of Ernesto Eisner; his father's application for citizenship in Brazil indicating that Ernesto Eisner was German; his own birth certificate indicating that the Claimant's father was Ernst Eisner; his father's voting certificate issued in Sao Paulo, Brazil, indicating that Ernesto Eisner was from Germany; and his father's will indicating that Ernesto Eisner's son, the Claimant, was a beneficiary of his Estate. The Claimant indicated that he was born on 18 June 1943 in Sao Paulo, Brazil.

Information Available in the Bank's Records

The Bank's records consist of a custody account opening form containing the Account Owner's signature and printouts from the Bank's database. According to these records, the Account Owner was Ernst Eisner, who resided at Via Marin Sanude 6, in Venice, Italy. The Bank's records further indicate that the Account Owner held a German passport that was issued in Breslau, Germany. The Bank's records indicate that the Account Owner held a custody account that was opened on 27 July 1936. The Bank's records further indicate that the Account Owner did not deposit any securities in the account on the date of its opening. The Bank's records do not show when the account at issue was closed nor do these records indicate the value of the account.

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. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account 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 name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant indicated that his father was from Breslau, which is consistent with unpublished information about the Account Owner's passport contained in the Bank's records. The Claimant also submitted a sample of his father's signature, which matches the signature of the Account Owner contained in the Bank's records. Furthermore, unpublished information in the Bank's records shows that the Account Owner lived in Venice in 1936, when the account was opened, which is consistent with the Claimant's statement that his father lived in Venice from 1936 until 1937. In support of his claim, the Claimant submitted documents including his parents' marriage certificate and his father's certificate of naturalization indicating that Ernst Eisner was born in Breslau; his father's death certificate identifying Ernesto Eisner; a court decision from Berlin, Germany, indicating that Ernst Eisner was from Breslau; his father's birth certificate indicating that Ernst Eisner was born in Breslau; his father's German driver's license

issued in Breslau and containing the signature of Ernesto Eisner; his father's application for citizenship in Brazil indicating that Ernesto Eisner was German; his own birth certificate indicating that his father was Ernst Eisner; his father's voting certificate issued in Sao Paulo, Brazil, indicating that Ernesto Eisner was from Germany; and his father's will indicating that Ernesto Eisner's son, the Claimant, was a beneficiary of his Estate, providing independent verification that the person who is claimed to be the Account Owner had the same name and/or was from the same city recorded in the Bank's records as the name and previous city of residence of the Account Owner. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the countries of residence of 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 that he fled Germany in 1936 to escape Nazi persecution.

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 and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the birth certificate of the Claimant and his father's will, both indicating that the Claimant is the son of the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs who have submitted a claim.

The Issue of Who Received the Proceeds

Given that the Account Owner left Europe for Brazil in approximately 1937; that there is no record of the payment of the Account Owner's account to him, 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 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 father 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 account.

Amount of the Award

In this case, the Account Owner held 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”). 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 SF 162,500.00.

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
31 March 2005