

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Accounts of Hildegard Eisner and Rudolf Eisner

Claim Numbers: 501641/JW; 501642/JW

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], formerly [REDACTED], (the “Claimant”) to the published accounts of [REDACTED] and [REDACTED]. This award is to the accounts of Rudolf Eisner (“Account Owner Rudolf Eisner”) and the account of Hildegard Eisner (“Account Owner Hildegard Eisner”) (together the “Account Owners”), over which Account Owner Rudolf Eisner held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).¹

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 Claim Forms identifying the Account Owners as his parents, [REDACTED], who was born on 1 April 1888 in Berlin, Germany, and [REDACTED], né [REDACTED], who was born on 31 May 1891 in Berlin. The Claimant indicated that his parents, who were Jewish, were married in 1915 and resided at Landgraf Street 4A in Berlin until 1938. The Claimant further indicated that his parents had two children: [REDACTED], formerly [REDACTED] (the Claimant) and [REDACTED], né [REDACTED], who was born on 31 December 1927 in Berlin and who died 19 November 1997 in Southampton, England, without issue. According to documents submitted by the Claimant, [REDACTED] was an engineer and held the title of [REDACTED]. The Claimant stated that his father was forced to forfeit his personal assets, his industrial interests, and his position as a managing partner at the

¹ 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”), Rudolf Eisner is indicated as having one account. As discussed *infra*, the CRT has concluded after careful review that the Bank’s records do not provide evidence of an account belonging to Rudolf Eisner open or opened during the Relevant Period, *i.e.*, from 1933 to 1945.

Albert Hahn Roehrenwalzwerk (steel mill) in Berlin because he was Jewish. The Claimant stated that he and his family fled to Prague, Czechoslovakia (now the Czech Republic) in February 1938, and that they subsequently fled to England on 7 July 1939. The Claimant indicated that his father died on 3 August 1945 in London, the United Kingdom, and that his mother died on 16 February 1988 in Kennet [sic] Oaks, the United Kingdom.

The Claimant submitted documents in support of his claims, including: (1) copies of the personal histories of his parents written by his mother, indicating that she married [REDACTED], an engineer, in 1915 in Berlin, that their family fled to Prague in February 1938, and subsequently to England on 7 July 1939; (2) a copy of his father's will, dated 19 July 1941, indicating that he was born on 1 April 1888, that his wife, [REDACTED], née [REDACTED], was born on 31 May 1891, that he had two children named [REDACTED] and [REDACTED], and that he left his residual estate to his wife; (3) a copy of his mother's certificate of inheritance, dated 13 February 2004, indicating that the heirs of [REDACTED], née [REDACTED], were her children, [REDACTED], née [REDACTED], who predeceased her, and [REDACTED], formerly [REDACTED]; and (4) a copy of his sister's certificate of inheritance, dated 2 March 2004, indicating that [REDACTED], formerly [REDACTED], was the sole heir to the estate of [REDACTED], née [REDACTED].

The Claimant indicated that he was born on 17 August 1924 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, correspondence between Account Owner Rudolf Eisner and the Bank, forms indicating the opening of a custody account, a customer card, a consent form signed by Account Owner Rudolf Eisner allowing his wife, Account Owner Hildegard Eisner, to open an account, an internal Bank memorandum, and printouts from the Bank's database. The Bank's records include signature samples from both of the Account Owners.

According to the Bank's records, the Account Owners were Mrs. Hildegard Eisner, neé Ring, and *Herr* (Mr.) Dr. *Ing.* (Engineer) Rudolf Eisner. The Bank's records indicate that Account Owner Hildegard Eisner held a custody account, over which Account Owner Rudolf Eisner, who was Account Owner Hildegard Eisner's husband, held power of attorney. The Bank's records further indicate that the Account Owners resided at Nabrezi legli 14 in Prague XVI as of 30 April 1938, and subsequently at the *Granby Court Hotel*, 88 and 89 Queen's Gate, South Kensington, London, the United Kingdom, after 11 July 1939. The Bank's records indicate that the account was closed on 26 July 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The Bank's records indicate that Account Owner Rudolf Eisner held an account (*Namenkonto*) and a custody account, which was opened on 21 September 1925 in Berlin. The internal memorandum found in the Bank's records indicates the Bank had records regarding two accounts owned by Account Owner Rudolph Eisner as early as 1925, and that one of his

accounts was closed on 26 October 1931. According to correspondence dated 21 March 1938, Account Owner Rudolf Eisner requested a reference from the Bank in preparation for his relocation to Zug, Switzerland, and indicated that he wished to make an investment with the Bank. This correspondence further indicates that Account Owner Rudolf Eisner resided at Nabrezi legli 14 in Prague XVI and that he worked for the Albert Hahn *Roehrenwalzwerk*, which maintained branches in Berlin and Prague. According to the correspondence in the Bank's records dated 25 March 1938, Account Owner Rudolf Eisner provided the Bank with additional references, and indicated that he had held a *Namenkonto* and a custody account with the Bank from 1920 until 1932. The Bank's records do not indicate that Account Owner Rudolph Eisner opened another account after 1932.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents, including a customer card and account statements for Account Owner Hildegard Eisner, who resided in London. According to the customer card, Account Owner Rudolf Eisner held a custody account with the Bank that was closed on 29 February 1928.

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 the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's parents' names and city of residence match the published names and city of residence of the Account Owners. The Claimant identified Account Owner [REDACTED]'s professional title, the company in which he was a partner, and the previous cities of residence of the Account Owners, which matches unpublished information about the Account Owners contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including copies of the personal histories of his parents written by his mother, a copy of his father's will, and a copy of his mother's certificate of inheritance, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same cities recorded in the Bank's records as the name and cities of residence of the Account Owners. The Claimant also submitted samples of his parents' signatures, which match the signature samples contained in the Bank's records. The CRT notes that the names Rudolf Eisner and Hildegard Eisner each appear only once 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"). The CRT notes that the other claim to the account of Rudolf

Eisner was disconfirmed because that claimant provided a different spouse's name than the name of Account Owner Rudolf Eisner's spouse.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they resided in Nazi Germany, that they were forced by the Nazi regimes of Germany and Czechoslovakia to sell or forfeit their industrial and personal assets, and that they fled Germany and subsequently Czechoslovakia to avoid Nazi persecution.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were his parents. These documents include a copy of his father's will, indicating that his wife was [REDACTED] [REDACTED], née [REDACTED], and that he had a son named [REDACTED], and a copy of his mother's certificate of inheritance, indicating that [REDACTED], née [REDACTED], had a son named [REDACTED], formerly [REDACTED]. There is no information to indicate that the Account Owners have other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of his father's will, the personal history of his parents written by his mother, and a copy of the his mother's certificate of inheritance. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. 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 Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that Account Owner Hildegard Eisner's account was closed on 26 July 1939, at which time, according to information provided by the Claimant, Account Owner Hildegard Eisner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that Account Owner Hildegard Eisner fled her country of origin due to Nazi persecution, that Account Owner Hildegard Eisner may have had relatives remaining in their country of origin and that she may therefore have yielded to Nazi pressure to turn over her account to ensure their safety, that Account Owner Hildegard Eisner and her heirs would not have been able to obtain information about her account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (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.

With regard to the accounts of Account Owner Rudolf Eisner, the CRT notes that the Bank's records indicate that Account Owner Rudolf Eisner closed his accounts with the Bank in 1931. The CRT further notes that correspondence from Account Owner Rudolf Eisner to the Bank indicates that he closed his accounts with the Bank in 1932. The CRT notes this discrepancy regarding the date of closure, but concludes that this discrepancy is immaterial to the Claimant's claim to these accounts because, in either case, the accounts were closed prior to 1933. According to Article 14 of the Rules, the CRT has jurisdiction to resolve claims to accounts of victims open or opened in Swiss banks during the Relevant Period, which is defined as 1 January 1933 to 31 December 1945. Accordingly, the CRT has no jurisdiction over these accounts and makes no determination regarding their disposition. The CRT notes that the banks records do not indicate that Account Owner Rudolf Eisner opened any additional accounts subsequent to closing his accounts in 1931 or 1932. Therefore, the Claimant is not entitled to any award to accounts belonging to Account Owner Rudolf Eisner.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner [REDACTED] was his [REDACTED], and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither Account Owner [REDACTED] nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

For the purpose of this award, Account Owner Hildegard Eisner 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (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 claims 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
23 June 2006