

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Ernst Epstein

Claim Numbers: 753928/GO; 753942/GO¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Ernst Epstein (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 two ATAG Ernst & Young claim forms identifying the Account Owner as Ernest Epstein, a brother or uncle of his paternal grandfather, [REDACTED]. In a telephone conversation with the CRT on 8 February 2007, the Claimant stated that Ernest Epstein was indeed his grandfather’s brother. The Claimant further stated that his great-uncle, who was Jewish, resided in Krakow, Poland and perished during the Second World War. The Claimant indicated that because he was only three years old when he fled to Palestine (now Israel) and because so many of his family members perished in the Holocaust, he does not know more

¹ Claimant Yosef Sela (the “Claimant”) did not submit a CRT Claim Form. However, in 1998 he submitted two ATAG Ernst & Young claim forms (“ATAG Form”), numbered C-TLV-A-80-118-172-922 and C-TLV-A-80-216-204-303, respectively, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Forms were forwarded to the CRT and have been assigned Claim Numbers 753928 and 753942, respectively.

² The Claimant also claimed the published account of Oswei Epstein. The CRT will treat the claim to this account in a separate determination.

information about his great-uncle. The Claimant stated that he was formerly known as [REDACTED] and that he later changed his name to [REDACTED].

In support of his claim, the Claimant submitted documents, including: (1) his father's birth certificate, indicating that [REDACTED] was born on 30 October 1898 in Krakow and that [REDACTED] and [REDACTED] were his parents; and (2) his own birth certificate, indicating that [REDACTED] was born on 18 December 1937 in Krakow and that [REDACTED] and [REDACTED] were his parents.

The Claimant indicated that he was born on 18 December 1937 in Krakow.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Ernst Epstein during their investigation of the Bank. The documents evidencing an account belonging to Ernst Epstein were obtained from the Swiss Federal Archive in Bern, Switzerland, and from the Press Office of the Polish Ministry of Finance, and are further described below.

Information Available from 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 Ernst Epstein, numbered 322. According to these records, Ernst Epstein, who was an *Ingenieur* (engineer), resided at Rynek 33 in Krakow, Poland, and his last known contact with the Bank occurred before May 1945.

These records further indicate that the Bank applied to the relevant custodial authority (*Vormundschaftsbehörde*) to appoint a custodian for that account, and that such custodian was appointed in 1966.

In addition, these records indicate that Ernst Epstein held a demand deposit account, and that on 12 December 1963, the amount in the demand deposit account was 1,368.50 Swiss Francs ("SF"). The records do not indicate the ultimate disposition of the account. There is no evidence in these records that Ernst Epstein or his heirs closed the account and received the proceeds themselves.

Information Published by the Press Office of the Polish Ministry of Finance

In a publication entitled *Nasze Finanse*, published by the Press Office of the Polish Ministry of Finance, number 25, dated 1998, there is information concerning the assets of Ernst Epstein, who resided at Rynek 33 in Krakow, Poland, who was an *Inżynier* (engineer), and whose last known contact with the Bank occurred before the end of the Second World War.

These records indicate that Ernst Epstein held a demand deposit account, and that on 17 July 1973, the amount in the demand deposit account was SF 1,452.00. These records further indicate that the proceeds of the account were transferred on 15 August 1975 to the Polish National Bank.

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 Owner

The Claimant's grandfather's brother's name matches published name of the Account Owner.³ The Claimant identified the Account Owner's city and country of residence, which matches published information about the Account Owner contained in the Swiss Federal Archive and Polish Ministry of Finance records.⁴

The CRT notes that the Claimant filed two ATAG Ernst & Young claim forms in 1998 asserting his entitlement to a Swiss bank account owned by Ernst Epstein, prior to the publication of the List of Account Owners published in 2005 (the "2005 List"). This indicates that the Claimant has based his present claims not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the 2005 List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

³ The CRT notes that the Claimant spelled his relative's first name as "Ernest" while the Bank's records indicate that the Account Owner's first name was "Ernst." The CRT further notes that the names are substantially similar, that spelling variations often occurred given the passage of time and the use of different languages and alphabets, and that the spelling discrepancy does not materially affect the Claimant's identification of the Account Owner.

⁴ The CRT notes that no information but the Account Owner's name was published on the 2005 List. However, specific information was available to the public from the publication of the Polish Ministry of Finance, number 25, dated February 1998.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence and a different profession than the country of residence and profession of the Account Owner. 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 that he perished in the Holocaust.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's grandfather's brother. The CRT notes that the Claimant submitted his father's birth certificate, indicating that [REDACTED] was born in Krakow, Poland, and his own birth certificate, indicating that [REDACTED] was born in Krakow and that [REDACTED] was his father, which provides independent verification that the Claimant's relatives resided in the same city and bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The records of the Press Office of the Polish Ministry of Finance indicate that the account was paid to the Polish National Bank on 15 August 1975.

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's brother, and that relationship justifies an Award. Third, the CRT has determined 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 demand deposit account. The records of the Press Office of the Polish Ministry of Finance indicate that the value of the demand deposit account

was SF 1,452.00 on 17 July 1973.⁵ In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 435.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1973. Consequently, the adjusted balance of the account at issue is SF 1,887.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 a total award amount of SF 26,750.00.

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
23 April 2007

⁵ The CRT notes that there is a discrepancy in the amount of the balance of the account between the information provided in the records of the Swiss Federal Archive and records of the Polish Ministry of Finance. The Swiss Federal Archive records indicate that on 12 December 1963, the amount in the demand deposit account was SF 1,368.50 and the Polish Ministry of Finance records indicate that on 17 July 1973, the amount in the demand deposit account was SF 1,452.00. The CRT notes that it has taken this later amount as its valuation basis. The CRT further notes that, even if it had taken the lower amount as its valuation basis, the final award amount would not have been affected.