

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Oswei Epstein

Claim Numbers: 400204/MBC, 401922/MBC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Oswei Epstein (the “Account Owner”) at the Aarau branch of the [REDACTED] (the “Bank”).

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 Claimants

The Claimants, who are siblings, submitted substantially similar Claim Forms identifying the Account Owner as their paternal grandfather, Owsei (Owsiej) Yehoshua Moshe (Mowsza) Epstein (Epsztejn), who was born on 26 April 1877 in Motol, Belarus, and was married to [REDACTED], née [REDACTED] in Pinsk, Belarus. The Claimants indicated that their grandfather, who was Jewish, was a wood exporter, and resided from 1920 until 1937 in Danzig (today Gdansk, Poland) and Warsaw, Poland. The Claimants explained that their grandfather died on 6 November 1937 in Danzig, and his wife, [REDACTED], who was also Jewish, died in the Pinsk ghetto, after the Nazi occupation of Pinsk.

In support of their claims, the Claimants submitted copies of documents, including: (1) a letter from Yehoshua Epstein to his son [REDACTED], on a letter head of “*Owsei Epstein, Holzexport*” (Owsei Epstein, Wood Export), indicating that Oswei Epstein owned a wood export business located at Vorstädt. Graben 1a in Danzig; (2) a certificate of death, indicating that Owsiej Epsztejn died on 6 November 1937 in Gdansk; (3) a general power of attorney form, indicating that Owsiej Epstein (Epsztejn), originally residing at Holzgasse 27 in Gdansk, temporarily residing at Długa street number 49 in Warsaw, granted power of attorney to Perec Epstein; (4) a marriage certificate, issued in 1937, indicating that [REDACTED] was the son of

Yehoshua and [REDACTED] of Danzig; (5) an Israeli identification card, indicating that [REDACTED 1] is the son of [REDACTED]; and (6) an Israeli identification card, indicating that [REDACTED 2] is the daughter of [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 1 January 1943 in Jerusalem, Palestine (today Israel). Claimant [REDACTED 2] indicated that she was born on 21 February 1945 in Jerusalem.

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 Oswei Epstein during their investigation of the Bank. The documents evidencing an account belonging to Oswei Epstein were obtained from the Swiss Federal Archive and from the Press Office of the Polish Ministry of Finance, 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 assets of Oswei Epstein, numbered 59.

According to these records, the Account Owner was Oswei Epstein, who was Jewish, who resided at Sienna 43 A, in Warsaw, Poland, and was a wood exporter. The records indicate that the Account Owner held a demand deposit account, whose value was 794.00 Swiss Francs ("SF") as of 3 February 1964.

The records of the Swiss Federal Archive indicate that a custodian was appointed to the account on 27 December 1965. The records further indicate that the proceeds of the account were transferred to the Heirless Assets Fund in Bern on 1 May 1970, at which time it held an amount of SF 660.00. The records further indicate that the proceeds of the account, in the amount of SF 660.00, were transferred on 15 August 1975 to the Polish National Bank.

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

In the publication entitled *Nasze finanse*, published by the Press Office of the Polish Ministry of Finance, number 25, dated February 1998, there is information concerning the assets of Oswei Epstein. According to these records, the Account Owner was Oswei Epstein, who was Jewish, who resided at Sienna 43 A, in Warsaw, Poland, and was a wood exporter. These records

indicate that the Account Owner held an account with a balance of SF 794.00, of which SF134.00 was taken as bank fees. The records further indicate that the account had a balance of SF 660.00 on 15 August 1975, when it was transferred 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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' grandfather's name matches the published name of the Account Owner.¹ The Claimants also identified the Account Owner's city of residence and occupation, which matches unpublished information about the Account Owner contained in the records of the Swiss Federal Archive.

In support of their claim, the Claimants submitted documents, including a letter on a letter head, certificate of death, and a power of attorney form, providing independent verification that the person who is claimed to be the Account Owner had the same name, profession, and resided in the same town recorded in the Bank's records as the name, profession, and city of residence of the Account Owner. The CRT notes that the name Oswei Epstein appears only once on the List of Account Owners Published in 2005 (the "2005 List"). The CRT notes that the other claims to this account were disconfirmed because that claimant provided a different country of residence or different profession than the country of residence and profession of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The CRT notes that while the Account Owner was not a Victim of Nazi Persecution, the Account Owner's wife and heir to the account, [REDACTED], was a Victim of Nazi Persecution. The Claimants stated that the Account Owner's wife perished in the Pinsk Ghetto during the Second World War.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that she was born in 1876, that she was married to Owsei (Yehoshua) Epstein and that she perished in the Pinsk Ghetto in 1942, which

¹ The CRT notes that the Bank's records identify the account as belonging to Oswei Epstein. The CRT notes that Oswei is not a common name, whereas Owsei is a Yiddish and Belarussian name from that period. Given this, and the fact that the Claimants identified the unpublished city of residence and occupation of the Account Owner, the CRT concludes that the letters in the Account Owner's first name as recorded in the records from the Swiss Federal Archive and the Press Office of the Polish Ministry of Finance were simply transcribed.

matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's Relationship to the Account Owner

The Claimants, who are siblings, have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' grandfather. These documents include a marriage certificate, issued in 1937, indicating that [REDACTED] was the son of Yehoshua and [REDACTED], and the Claimants' Israeli identification cards, indicating that [REDACTED 1] and [REDACTED 2] are the son and daughter of [REDACTED].

The Issue of Who Received the Proceeds

The records of the Press Office of the Polish Ministry of Finance indicate that the proceeds of the account were 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their grandfather, 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 from the Swiss Federal Archives and the Press Office of the Polish Ministry of Finance indicate that the value of the demand deposit account as of 3 February 1964 was SF 794.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 300.00, which reflects numbered account fees and standardized bank fees charged to the demand deposit account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 1,094.00. 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.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimants, who are siblings, are both grandchildren of the Account Owner. Therefore, Claimant [REDACTED 1] is entitled to one-

half of the total award amount, and Claimant [REDACTED 2] is entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
29 May 2007