

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]
represented by [REDACTED]

and to Claimant [REDACTED 4]
also acting on behalf of [REDACTED 5] and [REDACTED 6]
represented by [REDACTED]

in re Accounts of the Relatives of Aron and Elie Eskénazi

Claim Numbers: 210099/NB; 214575/NB; 217994/NB; 501864/NB

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 4] (“Claimant [REDACTED 4]”) to the published accounts of Elie and Aron Eskénazi at the Basel branch of the [REDACTED] (the “Bank”). This Certified Award is to two accounts identified by the numbers 1225 and 1227, which were owned by unnamed relatives of Aron and Elie Eskénazi (the “Account Owners”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

Procedural History

On 6 February 2004, the Court approved an award to four accounts belonging to Aron and Elie Eskénazi to Claimant [REDACTED 1] (the “February 2004 Award”). Claimant [REDACTED 4]’s entitlement to those accounts was not addressed in that award, as she had not filed a claim to those accounts at the time the accounts were awarded. In that award, the CRT reserved judgment regarding two accounts of unknown type held under the numbers 1225 and 1227 by (an) unnamed close relative(s) of Aron and Elie Eskénazi.

Claimant [REDACTED 4] subsequently appealed the February 2004 Award, asserting her entitlement to two awarded accounts owned by Aron Eskénazi and to two unawarded accounts, which she claimed belonged to her father, [REDACTED].

In this Award, the CRT addresses the entitlement of Claimant [REDACTED 1] and Claimant [REDACTED 4] to the two unawarded accounts. Claimant [REDACTED 4]'s appeal regarding the accounts of Aron Eskénazi is being treated by the office of the Special Master and is not addressed in this decision.

The February 2004 Award

Based on the information contained in the Bank's records, the CRT identified six accounts in the February 2004 Award: a custody account and a demand deposit account, both numbered 1232, which were owned by Aron Eskénazi; a custody account and demand deposit account, both numbered 1180, which were owned by Elie Eskénazi; and two accounts of unknown type, numbered 1225 and 1227, whose unnamed owner(s) was/were related to the Aron and Elie Eskénazi.

In the February 2004 Award, the CRT further determined that Claimant [REDACTED 1] plausibly identified the account owners of the four accounts numbered 1232 and 1180, that she plausibly demonstrated that she was related to the account owners, and that she made a plausible showing that the account owners were Victims of Nazi Persecution. Additionally, the CRT determined that it was plausible that the account owners did not receive the proceeds of their accounts.

The CRT noted that the value of the four awarded accounts was unknown, and therefore presumed that the combined value for the two demand deposit accounts was SF 4,280.00 Swiss Francs ("SF") and that the combined value for the two custody accounts was SF 26,000.00, pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"). The CRT concluded that Claimant [REDACTED 1] and the parties she represented were entitled to a total award amount of SF 378,500.00.

At the time of the February 2004 Award, the CRT reserved decision on the two accounts numbered 1225 and 1227, pending further consideration as to the identity of the owners of these accounts and their relationship to Aron and Elie Eskénazi.

Information Provided by Claimant [REDACTED 4]

In support of her appeal, Claimant [REDACTED 4] submitted a Claim Form identifying Aron Eskénazi as her paternal grandfather, Aron Rahamin Eskénazi, who was born on 25 September 1879 in Aleppo, Syria, and was married to [REDACTED]. Claimant [REDACTED 4] stated that Aron Eskénazi's son, [REDACTED], was her father, who was born on 4 March 1911 in Aleppo and was married to [REDACTED]. Claimant [REDACTED 4] further identified Elie Eskénazi as her paternal uncle, Elie Raoul Eskénazi, who was born on 26 December 1918 in Aleppo. Claimant [REDACTED 4] stated that in 1919, her family resided at rue de Prony in Paris, France, and that they then moved to Lyon, France, where they resided until 1948.

Claimant [REDACTED 4] further indicated that her father, who was Jewish, joined the French Resistance around 1942 using the assumed name Dulevant. Claimant [REDACTED 4] further

indicated that her father was arrested by the Nazis in April 1943 and shot on 21 July 1943 in Fort Monluc, France. According to Claimant [REDACTED 4], Aron Eskénazi who was also arrested by the Nazis, survived the Second World War and died on 8 May 1948. Finally, Claimant [REDACTED 4] indicated that Elie Eskénazi served in the British Army from 1943 to 1946, and that he died on 18 May 2000 in Alix, France.

In support of her claim, Claimant [REDACTED 4] submitted documents, including: (1) her father's marriage certificate, which indicates that [REDACTED], who was born on 4 March 1911 in Aleppo, was the son of Aron Eskénazi and [REDACTED]; (2) her father's death certificate, which indicates that [REDACTED] died on 21 July 1943 in France; (3) an undated typewritten letter signed by Raoul and addressed to his niece, which indicates that Aron Eskénazi had three sons, [REDACTED], Elie Eskénazi, and [REDACTED]; (4) Claimant [REDACTED 4]'s birth certificate, which indicates that [REDACTED 4] was the daughter of [REDACTED]; and (5) Claimant [REDACTED 4]'s siblings' birth certificates, which indicate that [REDACTED 5] and [REDACTED 6] were the children of [REDACTED].

Claimant [REDACTED 4] indicated that she was born on 4 November 1941 in Lyon. Claimant [REDACTED 4] is representing her siblings: [REDACTED 5], who was born on 21 January 1943 in Lyon; and [REDACTED 6], née [REDACTED], who was born on 17 April 1940 in Neuilly-sur-Seine, France.

Information Available in the Bank's Records

As detailed in the February 2004 Award, the Bank's records consist of two customer cards.

Elie Eskénazi's customer card indicates that he owned a custody account and a demand deposit account, both identified by the number 1180. Elie Eskénazi's customer card also references three additional accounts, numbered 1225, 1227 and 1232, the types of which are not indicated. These accounts are listed under the "Relations" header of Elie Eskénazi's customer card, but there is no indication of the exact relationship between the owners of these three accounts and Elie Eskénazi.

Aron Eskénazi's customer card indicated that he owned a custody account and a demand deposit account, both identified by the number 1232. Aron Eskénazi's customer card references account number 1180 under the "Relations" header of his customer card. The handwritten inscription "his brother" (*son frère*) appears beside the notation for account 1180. Thus, according to the Bank's records, Aron Eskénazi, who held accounts numbered 1232, and Elie Eskénazi, who held accounts numbered 1180, were siblings.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of printouts from the Bank's database, and indicate that Elie Eskénazi, from Paris, France, owned at least one account numbered 1180 and that Aron Eskénazi, from Aleppo, Syria, owned at least one account numbered 1232.

With respect to accounts 1225 and 1227, both of unknown type, 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 these accounts during their investigation.

The Bank’s records do not show when accounts 1225 and 1227 were closed, nor do these records indicate the value of these accounts. There is no evidence in the Bank’s records that the Aron or Elie Eskénazi or their relative(s) who owned accounts 1225 and 1227, or their heirs closed the accounts and received the proceeds themselves.

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) of 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 four claims of Claimant [REDACTED 1] and Claimant [REDACTED 4] in one proceeding.

Identification of the Owners of Accounts 1225 and 1227

As discussed above, the Bank’s records do not reveal the names of the owners of the accounts numbered 1225 and 1227; the records simply indicate that the owners of these accounts were related to Elie Eskénazi, and by implication, that they were related to Aron Eskénazi. The CRT notes that Claimant [REDACTED 1] plausibly identified Elie Eskénazi and Aron Eskénazi as the owners of the accounts addressed in the February 2004 Award.

The CRT also notes that Claimant [REDACTED 4] has plausibly identified Elie Eskénazi and Aron Eskénazi. The names of Claimant [REDACTED 4]’s uncle and grandfather, as well as their cities and countries of residence match the names, cities and countries of residence of the account owners as contained in the Bank’s records. In support of her claim, Claimant [REDACTED 4] submitted her father’s marriage certificate, providing independent verification that the person who was claimed to be Aron Eskénazi had the same name and resided in the same city recorded in the Bank’s records as the name and city of residence of the account owner.

The CRT notes that the Bank’s records include handwritten notations indicating that the owner of the two accounts numbered 1180 (Elie Eskénazi) was the brother of the owner of the two accounts numbered 1232 (Aron Eskénazi). In contrast, Claimant [REDACTED 1] and Claimant [REDACTED 4] have asserted that Aron and Elie Eskénazi were, in fact, father and son. However, the CRT finds that this discrepancy does not affect the plausibility of the claims of Claimant [REDACTED 1] and Claimant [REDACTED 4]. After careful consideration of the Bank’s records and the well-documented claims of Claimant [REDACTED 1] and Claimant [REDACTED 4], the CRT considers it likely that the notation “his brother” (*son frère*) on Aron Eskénazi’s customer card was written next to the wrong account number by a Bank employee.

Furthermore, according to the information provided by Claimant [REDACTED 1] and Claimant [REDACTED 4], Aron Eskénazi had three sons: Elie Eskénazi (Claimant [REDACTED 1]’s father), [REDACTED] (Claimant [REDACTED 4]’s father), and [REDACTED]. Based on this information, together with the appearance of three separate, handwritten account numbers under the “Relations” header of Account Owner Elie Eskénazi’s account card, the CRT considers it plausible that one or both of Elie Eskénazi’s brothers may have owned accounts 1225 and 1227.

Status of the Owners of Accounts 1225 and 1227 as Victims of Nazi Persecution

As indicated above, the Bank’s records do not indicate the names of the owners of accounts 1225 and 1227, although they do indicate that the owners of those accounts were related to Elie Eskénazi and Aron Eskénazi. The CRT notes that while there is consequently no method of identifying the victim status of the owners of accounts 1225 and 1227, both Claimant [REDACTED 1] and Claimant [REDACTED 4] stated that the Eskénazi family was Jewish and that the family resided in Nazi-occupied France. Furthermore, the CRT determined in the February 2004 Award that Elie Eskénazi and Aron Eskénazi, who were related to the owners of accounts 1225 and 1227, were Victims of Nazi Persecution. Therefore, the CRT concludes that it is plausible that the owners of accounts 1225 and 1227 were also Victims of Nazi Persecution.

The Claimants Relationship to the Owners of Accounts 1225 and 1227

As detailed in the February 2004 Award, the CRT determined that Claimant [REDACTED 1] plausibly demonstrated that she is related to the account owners, by submitting documents demonstrating that Elie Eskénazi was the son of Aron Eskénazi, and that Claimant [REDACTED 1] and the parties she represents are the grandchildren of Aron Eskénazi and the children of Elie Eskénazi.

Claimant [REDACTED 4] has plausibly demonstrated that she is related to Elie Eskénazi and Aron Eskénazi, by submitting specific biographical information, demonstrating that Claimant [REDACTED 4] and the parties she represents are the grandchildren of Aron Eskénazi and the nieces and the nephew of Elie Eskénazi.

The CRT notes that the additional Bank’s records obtained through Voluntary Assistance do not provide additional information regarding the relationship between the owners of accounts 1225 and 1227 and the account owners addressed in the February 2004 Award.

However, given that the Bank’s records indicate that the owner of account 1232 had a “relation” to the owner of account 1180, and that Claimant [REDACTED 1] and Claimant [REDACTED 4] have plausibly indicated that the owners of those accounts were, in fact, related; that Aron Eskénazi, who owned the accounts numbered 1232, has been identified as the father of Elie Eskénazi, who owned the accounts numbered 1180; and that the Bank’s records also indicate that the owners of accounts 1225 and 1227 had a “relation” to the owner of account 1180, the CRT determines that it is plausible, in light of the familial relationship, that the owners of accounts 1225 and 1227 were also closely related to the Aron and Elie Eskénazi, and, therefore, that they are related to Claimant [REDACTED 1] and Claimant [REDACTED 4].

The Issue of Who Received the Proceeds

Although the CRT does not possess additional information as to the fate of the proceeds of accounts 1225 and 1227, as detailed in the February 2004 Award, the CRT previously concluded that it is plausible that the proceeds of the accounts owned by Aron and Elie Eskénazi were not paid to them or their heirs. Similarly, given that accounts numbered 1225 and 1227 were owned by close relatives of Aron and Elie Eskénazi, who plausibly resided in Nazi-occupied territories; that it is plausible that the Nazis confiscated the assets of the Aron and Elie Eskénazi and those of their relatives, as detailed in the February 2004 Award; that there is no record of the payment of any of the accounts belonging to the Eskénazi family to their respective owners or to their heirs; that the owners of accounts 1225 and 1227 and their heirs would not have been able to obtain information about their 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 (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the proceeds of accounts 1225 and 1227 were not paid to their 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 relatives or heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and Claimant [REDACTED 4]. First, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 4] have plausibly demonstrated that they are related to Aron and Elie Eskénazi, who are related to the owners of accounts 1225 and 1227, and these relationships justify an Award. Third, the CRT has determined that it is plausible that neither the owners of accounts 1225 and 1227 nor their heirs received the proceeds of these accounts.

Amount of the Award

This Award concerns the two accounts numbered 1225 and 1227, the type and value of which are unknown. 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 similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was SF 3,950.00. Thus, the combined 1945 average value for the two accounts at issue is SF 7,900.00. 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 98,750.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the

account owners, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity.

Given the scant information in the available Bank's records, it is impossible to determine the exact nature of the relationship between the owners of accounts 1225 and 1227 and Aron and Elie Eskénazi; and given that Claimant [REDACTED 1] and Claimant [REDACTED 4] are both the grandchildren of Aron Eskénazi, the CRT shall employ the principles of fairness and equity in this case to conclude that Claimant [REDACTED 1] and her siblings, whom she represents, and Claimant [REDACTED 4] and her siblings, whom she represents, are each entitled to equal shares of the total award amount.

Consequently, Claimant [REDACTED 1] and represented parties [REDACTED 2] and [REDACTED 3] are each entitled to one-sixth of the total award amount; and Claimant [REDACTED 4] and represented parties [REDACTED 5] and [REDACTED 6] are each entitled to one-sixth of the total award amount.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2009