

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation

Case No. CV96-4849

Certified Award

to Claimant [REDACTED 1]
represented by Haim Kindler

and to Claimant [REDACTED 2]
represented by Daria Ebner Moore

in re Account of Josef Ebner

Claim Numbers: 003149/ES; 213947/ES

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the published account of Josef Ebner, and upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to an account of [REDACTED].¹ This Award is to the published account of Josef Ebner (the “Account Owner”) at 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

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her maternal uncle, Iosef Ebner, who was born in 1898 in Suceava, Romania, and was married to [REDACTED] in 1925 in Suceava. Claimant [REDACTED 1] indicated that her uncle, who was Jewish, was a businessman who had business connections in Switzerland. Claimant

¹ The CRT did not locate an account belonging to Claimant [REDACTED 2]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (ICEP or ICEP Investigation), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the Rules). Claimant [REDACTED 2] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 2] or upon information from other sources.

[REDACTED 1] stated that in 1940 her uncle was deported to a concentration camp in Transnistria, Romania, where he was detained until 1945. Claimant [REDACTED 1] stated that her uncle had no children, and that in 1949 he moved to Israel and later to Switzerland and then Buenos Aires, Argentina, where he died on 26 August 1978. In support of her claim, Claimant [REDACTED 1] submitted her uncle's burial certificate showing that Iosef Ebner's father was [REDACTED], and that he died in Argentina; the death certificate of her mother, [REDACTED], showing that her father was [REDACTED]; her own birth certificate, showing that her mother was [REDACTED], her own marriage certificate, and an inheritance certificate issued with respect to the estate of [REDACTED], stating that Claimant [REDACTED 1] is her sole heir.

Claimant [REDACTED 1] stated that she was born on 9 April 1929 in Galati, Romania.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire ("IQ") with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her parents, [REDACTED] and [REDACTED], née [REDACTED], and by her maternal uncle by marriage, [REDACTED].²

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father, Iosif Ebner, who was born in 1885, and was married to [REDACTED] in Bucharest, Romania. Claimant [REDACTED 2] stated that her father, who was Jewish, had three children: Blanche, Leopold and herself. Claimant [REDACTED 2] indicated that her father resided at Pantelimon 5 in Bucharest until his death in 1921. Claimant [REDACTED 2] stated that in 1940 her mother was attacked in her own home by the Iron Guard and was deported from her house with her children. Although Claimant [REDACTED 2] did not indicate the specific circumstances or dates of the deaths of her siblings, she stated in her Claim Form that they are both deceased and that her mother died in Bucharest in 1959. Claimant [REDACTED 2] stated that she left Romania in 1980 during the Communist regime, and that she was not allowed to take any documents with her.

Claimant [REDACTED 2] stated that she was born on 23 October 1920 in Bucharest.

Claimant [REDACTED 2] previously submitted an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her mother, [REDACTED].

² The CRT did not locate an account belonging to Claimant Rosenberg's relatives, [REDACTED] and [REDACTED], née [REDACTED], and [REDACTED], in the Account History Database prepared pursuant to the ICEP Investigation, which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules. Claimant Rosenberg should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 1] or upon information from other sources.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Josef Ebner. The Bank's record does not contain information about the Account Owner's domicile. According to the Bank's record, the Account Owner held an account, the type of which is not indicated.

The Bank's record indicates that the account was considered dormant by the Bank and was transferred to a suspense account for dormant assets on 17 November 1987. The amount in the account on the date of the transfer was 12.25 Swiss Francs ("SF"). The account remains in the Bank's suspense account.

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' relatives' names are substantially similar to the published name of the Account Owner.³ The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED], prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her family member, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that a family member owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

In support of her claim, Claimant [REDACTED 1] submitted her uncle's burial certificate, indicating that Josef Ebner died in Argentina, providing independent verification that the person

³ The CRT notes that the Claimants indicated that their relatives' name was Iosif Ebner, while the Bank's record indicates that the Account Owner's name was Josef Ebner. The CRT further notes that "Iosif" is the typical Romanian spelling of the name "Josef" and consequently finds that this discrepancy does not affect the Claimants' identification of the Account Owner.

who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

The CRT notes that, Claimant [REDACTED 2] stated in her Claim Form that her two siblings are deceased, but she did not state their dates of death. The CRT notes that, according to the documents submitted by Claimant [REDACTED 2], her sister was married before she died. However, there is no indication that either of Claimant [REDACTED 2]'s siblings had children. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and that in 1940 he was deported to a concentration camp in Transnistria, Romania, where he was detained until 1945.

The CRT notes that while according to Claimant [REDACTED 2], the Account Owner was not a Victim of Nazi Persecution, the Account Owner's wife and children, who would have inherited the Account upon the Account Owner's death, were Victims of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner's wife and children were Jewish, that the Account Owner's wife was attacked by the Iron Guard and that she and her children were deported.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s uncle. These documents include the Account Owner's burial certificate, confirming that his father was [REDACTED]; the death certificate of Claimant [REDACTED 1]'s mother, [REDACTED], showing that her father was [REDACTED]; and Claimant [REDACTED 1]'s own birth certificate, showing that her mother was [REDACTED].

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific information, including a family tree, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account remains in the Bank's suspense account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her uncle, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father, and those relationships justify 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 account of unknown type. The Bank's record indicates that the value of the account as of 17 November 1987 was SF 12.25. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 697.25. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 49,375.00 Swiss Francs.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the award amount, and Claimant [REDACTED 2] is entitled to one-half of the 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
30 December 2004