

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

and to Claimant [REDACTED 2]
both represented by Erez Bernstein

in re Account of Marie Eisler

Claim Numbers: 501827/NB; 501835/NB

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Anna Connard. This Award is to the published account of Marie Eisler (the “Account Owner”) at the Zurich 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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are related, submitted substantially similar Claim Forms identifying the Account Owner as Maria Eisler, née Taussig.

Claimant [REDACTED 1] identified the Account Owner as his maternal great-grandmother’s brother’s wife’s brother’s wife, Maria Eisler; Claimant [REDACTED 1] explained that his maternal great-grandmother was [REDACTED], née [REDACTED], whose brother was [REDACTED], who was married to [REDACTED], née [REDACTED], whose brother [REDACTED] was married to Maria Eisler.

Claimant [REDACTED 2] identified the Account Owner as her paternal grandmother’s brother’s wife, Maria Eisler. Claimant [REDACTED 2] indicated that her paternal grandmother was [REDACTED], née [REDACTED], whose brother was [REDACTED], who was married to Maria Eisler.

The Claimants indicated that [REDACTED], who was born in 1879, married Maria Taussig in 1910, that they were Jewish, and that the couple fled Austria for the United States in approximately 1939.

In support of his claim, Claimant [REDACTED 1] submitted copies of:

- (1) his family tree, which indicates that [REDACTED 1] is the great-grandson of [REDACTED], née [REDACTED], whose sister-in-law, named [REDACTED], née [REDACTED], was the sister of [REDACTED] and the sister-in-law of Maria Eisler, née Taussig;
- (2) his birth certificate, which indicates that [REDACTED 1] is the son of [REDACTED], née [REDACTED];
- (3) his mother's birth certificate, which indicates that [REDACTED] was the daughter of [REDACTED];
- (4) his maternal grandfather's marriage certificate, which indicates that [REDACTED] was the son of [REDACTED], née [REDACTED];
- (5) his maternal great-grandmother's marriage certificate, which indicates that [REDACTED] was the daughter of [REDACTED] and [REDACTED], née [REDACTED]; and
- (6) his maternal great-grandmother's brother's marriage certificate, which indicates that [REDACTED], who was born on 7 October 1863 to [REDACTED] and [REDACTED], née [REDACTED], married [REDACTED] on 11 April 1897.

Additionally, Claimant [REDACTED 2] submitted copies of:

- 1) her family tree, which indicates that [REDACTED 2] is the granddaughter of [REDACTED], who was the sister of [REDACTED] and the sister-in-law of Maria Eisler, née Taussig;
- 2) her father's death certificate, which indicates that [REDACTED], who was born on 27 May 1907 in Austria, died on 15 April 1990 in the United Kingdom;
- 3) her paternal grandmother's marriage certificate, which indicates that [REDACTED], who was born in 1882 to [REDACTED] and [REDACTED], married [REDACTED] on 2 September 1906 in Vienna, Austria; and
- 4) her paternal great-aunt's birth certificate, which indicates that [REDACTED] was born on 10 April 1877 to [REDACTED] and [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 20 January 1959 in Caracas, Venezuela, and Claimant [REDACTED 2] indicated that she was born on 3 November 1967 in the United Kingdom.

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owner was Marie Eisler, who resided in Vienna, Austria.

The Bank's records indicate that the Account Owner held a numbered custody account, numbered 13868, which was opened on 28 April 1932 and closed on 9 February 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 Owner or her heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Marie Eisler, numbered 17638. The records indicate that Marie Wilhelmine Eisler, née Taussig, who was born on 8 November 1884, was married to Ing. [REDACTED], who resided at Untere Viaduktgasse 10 in Vienna, Austria. Those records further indicate that Marie Eisler, who was Jewish, had moved to Italy on 29 January 1938 because she was suffering from tuberculosis. According to these documents, Marie Eisler registered with the Nazi authorities that she owned monetary assets worth 3,092.00 Reichsmark ("RM"), other valuables worth RM 500.00, as well as various securities worth RM 64,100.00.

The 1938 Census records also contain the will of Marie Eisler's father, [REDACTED], from whom she inherited various securities. Although these records do not indicate at which banks her securities were held, there is a letter, dated 28 November 1938, stating that Marie Eisler held some securities in Switzerland, which her brother, [REDACTED], had been ordered to sell. In a letter dated 5 March 1939, [REDACTED] stated on behalf of his wife that the securities which she inherited from her father, including those denominated in Swiss Francs, had been sold to the German Reichsbank.

The Austrian Census Records for Marie Eisler also contain a note from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property ("*Vermögensverkehrsstelle*" or "VVSt.") dated 21 April 1939, stating that Marie Eisler was assessed "flight tax" (*Reichsfluchtsteuer*) in the amount of RM 17,500.00 based on total assets of RM 82,200.00, with the first installment due on 15 May 1938. In a letter dated 8 March 1939, [REDACTED] stated that by that date, Marie Eisler had left Austria, that her husband resided at Untere Viaduktgasse 10, Vienna, that [REDACTED] had no contact with his sister at that time, and that as the executor of their father's will, he paid two installments of the flight tax on her behalf.

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' relative's name¹ and country of residence match the published name and country of residence of the Account Owner.

In support of her claim, Claimant [REDACTED 2] submitted documents, including her paternal grandmother's marriage certificate, which indicates that [REDACTED], who was born in 1882 to [REDACTED] and [REDACTED], married [REDACTED] on 2 September 1906 in Vienna, Austria; and her paternal great-aunt's birth certificate, which indicates that [REDACTED] was born on 10 April 1877 to [REDACTED] and [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records and the 1938 Census records as the name and city of residence of the Account Owner.

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

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner, who was Jewish, fled Austria for the United States in approximately 1939. The CRT also notes that the Account Owner was required to declare her assets pursuant to the 1938 Census.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner's sister-in-law was Claimant [REDACTED 1]'s maternal great-grandmother's brother's wife's sister-in-law, and demonstrating that the Account Owner was Claimant [REDACTED 2]'s paternal grandmother's sister-in-law.

The CRT notes that there may be other heirs of the Account Owner, but that because they have not submitted a claim to the CRT, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The CRT notes that the Bank records indicate that the Account Owner held one numbered custody account, which was closed on 9 February 1939, at which time, according to the

¹ The CRT notes that the name Maria is a common variation of the name Marie, and that the 1938 Census records indicate that the Account Owner's name was actually Marie Eisler.

information provided by the Claimants, the Account Owner may or may not have already been outside Nazi-dominated territories. However, given that the Bank's records do not indicate to whom the account was closed; that, according to her 1938 Census file, the Account Owner was forced to sell her foreign-held securities, including those denominated in Swiss francs; that the Account Owner fled to the United States due to Nazi persecution; that the Account Owner may have had relatives remaining in Austria, and that she may have yielded to Nazi pressure to turn over her account to ensure their safety; and given that the Account Owner and her 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her great-aunt by marriage, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

The CRT notes that Claimant [REDACTED 2], who is the great-niece of the Account Owner and related through only one marriage, is more entitled to the account than Claimant [REDACTED 1], who is the great-great-nephew of the Account Owner's sister-in-law and related through two marriages.

Amount of the Award

In this case, the Account Owner 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 ("ICEP" or 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.

Division of the Award

According to Article 23(1)(g), 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

Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Account Owner was the great-aunt by marriage of Claimant [REDACTED 2], and the sister-in-law of Claimant [REDACTED 1]'s great-grandmother's sister-in-law. In other words, the Account Owner was married to Claimant [REDACTED 2]'s great-uncle and to the brother of Claimant [REDACTED 1]'s great-grandmother's sister-in-law. Given that Claimant [REDACTED 2] is related to the Account Owner through one marriage only (that of her great-uncle), whereby Claimant [REDACTED 1] is related to the Account Owner through two marriages (that of her great-great-uncle and his brother-in-law), and given that Claimant [REDACTED 2], as great-niece, is one generation closer to the Account Owner than Claimant [REDACTED 1], as great-great-nephew of the Account Owner's sister-in-law, the CRT determines that Claimant [REDACTED 2] is more closely related to the Account Owner, and therefore entitled to the total award amount. Claimant [REDACTED 1] is not entitled to share in 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
18 December 2008