

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Accounts of Ella Frank and Ella Zoltan

Claim Number: 734493/LH^{2,3}

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Ella Zoltan, née Frank. This award is to the unpublished account of *Frau Dr. Eugen Zoltan*, née Ella Frank, at the [REDACTED] (“Bank I”) and to the published account of Ella Zoltan, née Frank (the “Account Owner”), over which Eugen Zoltan (“Power of Attorney Holder Eugen Zoltan”) and Gertrud Zoltan de Gozon (“Power of Attorney Holder Gertrud Zoltan de Gozon”) (together the “Power of Attorney Holders”) held power of attorney, at the Zurich branch of the [REDACTED] (“Bank II”).⁴

¹ The CRT was informed on 5 February 2007 that [REDACTED] (the “Claimant”) passed away on 13 December 1999. [REDACTED], the daughter of the Claimant, provided the CRT with a copy of her father’s death certificate and a certificate of inheritance, indicating that she is the sole heir of [REDACTED]’s estate.

² [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered OTH-0003-191, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 734493.

³ The Claimant submitted two additional IQs, numbered HEB-0213-175 and OTH-0003-188, which were also forwarded to the CRT and have been assigned the Claim Numbers 719052 and 734491, respectively. The CRT will treat these claims in separate determinations.

⁴ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Ella Zoltan was published twice: once as “Frank, *Frau Ella* (AKA Zoltan, *Frau Ella*) [Budapest, Hungary] [1]”; and once as “Zoltan, *Frau Ella* (AKA Frank, *Frau Ella*) [Budapest, Hungary] [1].” These entries refer to the account held at Bank II. Further, Eugen Zoltan is also indicated as owning one account. Upon careful review, the CRT has concluded that Bank II’s records evidence the existence of one account held by *Frau Ella Zoltan*, over which Eugen Zoltan and Gertrud Zoltan de Gozon held power of attorney. According to the records, Eugen Zoltan did not hold an account in his own name, but was only power of attorney holder to the account of Ella Zoltan at Bank II. Bank I’s records evidence the existence of one account belonging solely to *Frau Dr. Eugen Zoltan*, née Ella Frank, who resided in Budapest. This account was not published on the 2001 ICEP List. Based on a comparison of Bank I’s and Bank II’s records, the CRT has concluded that the owners of the accounts at Bank I and Bank II were the same person, Ella Zoltan, née Frank, (the “Account Owner”).

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 an Initial Questionnaire to the Court in 1999 identifying the Account Owner as his paternal cousin, Ella Zoltan, née Frank. The Claimant stated that his cousin, who was Jewish, resided at Pozsonyi Ut. 40 in Budapest, Hungary. The Claimant further stated that his cousin's parents were [REDACTED] and [REDACTED], née [REDACTED], who was the sister of [REDACTED], the Claimant's father.

In support of his claim, the Claimant's daughter submitted her father's death certificate, dated 28 December 1999, indicating that [REDACTED] was born on 5 January 1914, that he died on 13 December 1999, and that his father's name was [REDACTED].

The Claimant indicated that he was born on 5 January 1914.

Information Available in the Bank's Records

Bank I

Bank I's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Dr. Eugen Zoltan, née Ella Frank, who resided in Budapest, Hungary. Bank I's record indicates that the Account Owner held a custody account, which was closed on 28 February 1939. The amount in the account on the date of its closure is unknown.

Bank II

Bank II's records consist of a power of attorney form, a list of dormant accounts and extracts from suspense account ledgers. According to these records, the Account Owner was *Frau* Dr. Eugen Zoltan, née Ella Frank, and the Power of Attorney Holders were *Herr* (Mr.) Dr. Eugen Zoltan, the Account Owner's husband, and *Frau* Gertrud Zoltan de Gozon, the Account Owner's daughter, and they resided in Budapest. Bank II's records indicate that the Account Owner held a *Depositenkonto* (time deposit account), numbered 18052, which was opened on 26 July 1935, and which was transferred to a suspense account on or before 18 July 1949. The amount in the account on the date of its transfer was 598.00 Swiss Francs ("SF").

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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in Bank II's records that

the Account Owner, the Power of Attorney Holders, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's cousin's name and city and country of residence match the published name and city and country of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ella Zoltan, and indicates that her place of residence was Budapest, Hungary, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 asserting his entitlement to a Swiss bank account owned by Ella Zoltan, née Frank, 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 his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP 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 ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT also 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. 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 she resided in Nazi-allied Hungary. As noted above, a person named Ella Zoltan was included in the CRT's database of victims.

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 cousin. The CRT notes that the Claimant's daughter submitted a copy of her father's death certificate, indicating that the Claimant's father was [REDACTED], who was the brother of Ella

Zoltan's mother, [REDACTED], née [REDACTED]. The CRT further notes that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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 was related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the custody account held at Bank I, Bank I's record indicates that the account was closed on 28 February 1939, prior to the Hungarian alliance with Nazi Germany on 20 November 1940. Consequently, the CRT concludes that the Account Owner was able to access the custody account and receive the proceeds of that account.

With regard to the *Depositenkonto* held at Bank II, Bank II's records indicate that the account was transferred to a suspense account on or before 18 July 1949. The auditors who conducted the ICEP Investigation indicated that it was subsequently closed on an unknown date.

Given that the Account Owner and the Power of Attorney Holders resided in Nazi-allied Hungary; that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner, the Power of Attorney Holders, and their heirs would not have been able to obtain information about his account after the Second World War from Bank II 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, the Power of Attorney Holders 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 heirs received the proceeds of their accounts.

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 cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account known as a *Depositenkonto*, a time deposit account, which the CRT treats as an account of unknown type. Bank II's records indicate that the value of the account as of 18 July 1949 was SF 598.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 75.00, which reflects standardized bank fees charged to the account between 1945 and 1949. Consequently, the adjusted balance of the account at issue is SF 673.00. 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 SF 49,375.00.

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
31 August 2007