

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Veronika Fodor
also acting on behalf of Eva Györgyné Pápai
and Stella Saborsky

in re Accounts of Eugen Saborsky and Stephan Saborsky

Claim Number: 210700/XX

Award Amount: 335,375.00 Swiss Francs

This Certified Award is based upon the claim of Veronika Fodor, née Saborsky, (the “Claimant”) to the accounts of Eugen Saborsky. This Award is to the published accounts of Eugen Saborsky (“Account Owner Eugen Saborsky”) and Stephan Saborsky (“Account Owner Stephan Saborsky”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).¹

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owners as her paternal uncle, Eugen Saborsky, and her father, Stephan Saborsky, both sons of Albert Saborsky and Terese (Therese) Saborsky, née Bondy. The Claimant stated that her uncle was born on 19 February 1883 in Vienna, Austria, and that he was married to Annie Saborsky during the 1920s. The Claimant indicated that his uncle and aunt never had any children, and that they were later divorced. The Claimant further stated that her uncle, who was Jewish, served in the army from 1913 until 1918. In addition, the Claimant stated that her uncle, who attended the *Wiener Handelsakademie* (the Vienna Business School), became the co-manager of a cattle business, named *Eduard Saborsky & Co.*, which was founded by Eduard Saborsky, the brother of Albert

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP List”), the Account Owner is identified as Eugen Saborsky. Upon careful review, the CRT has concluded that the Bank’s record evidences joint account ownership by Eugen Saborsky and Stephan Saborsky. Moreover, on the ICEP List, Eugen Saborsky is identified as owning two accounts. Upon careful review, the CRT has concluded that the Bank’s record evidences the existence of three accounts.

² The CRT notes that “Jenő” is the Hungarian equivalent of “Eugen,” and that “István” is the Hungarian equivalent of “Stephan.”

Saborsky. The Claimant also stated that this business had branches in both Budapest, Hungary and Vienna, and specified that these were located at Gubacsi ut, and at the Heumarkt, respectively. Moreover, the Claimant stated that her uncle resided at Pilsudszky ut in Budapest, until 1934; at Hotel Royal Budapest, at Erzsébet krt, from 1934 until 1940; at a boarding house located at Benczur u. until sometime in 1944; and at Damjanich u. 49 until November of 1944. The Claimant further stated that the Vienna branch of her uncle's company was taken over by the Nazis on 22 July 1938. In addition, the Claimant stated that, on 15 November 1944, her uncle was beaten to death by Hungarian Nazis in Budapest.

Regarding her father, Stephan (István) Saborsky, the Claimant stated that he was married to Sidonie (Szidonia) Saborsky, née Klein, with whom he had three children, all of whom were born in Budapest: Stella Saborsky, who was born on 11 July 1920; the Claimant, who was born on 7 March 1922; and Eva Györgyné Pàpai, née Saborsky, who was born on 28 December 1924. The Claimant further stated that her father, who was Jewish, also attended the *Wiener Handelsakademie*, and that he co-managed *Eduard Saborsky & Co.* with his brother. Moreover, the Claimant stated that her father died of a heart attack on 26 April 1939, and that her uncle subsequently became her and her sisters' legal guardian. The Claimant also stated that her mother, a Czechoslovakian national, was interned in Hungary after her residence permit expired, but that she managed to escape and remain in Budapest using false identification thereafter. Finally, the Claimant stated that her mother died in Budapest on 3 October 1985.

The Claimant submitted the birth certificate of her sister, Stella Saborsky, identifying her father as István Saborsky, and specifying that he resided in Budapest; the marriage certificate of her sister, Eva Györgyné Pàpai, similarly identifying her father as István Saborsky; her uncle's birth certificate, identifying him as Eugen Saborsky, and his parents as Albert and Therese Saborsky; a handwritten will, signed by Eugen Saborsky, dated 25 April 1918, identifying Stefan Saborsky as his brother and heir; and a court decision regarding her uncle's estate, identifying him as Jenó Saborsky, of Budapest, István Saborsky as his deceased brother, and Veronika Fodor, née Saborsky, Eva Györgyné Pàpai, née Saborsky, and Stella Saborsky, as István Saborsky's children.² The Claimant represents her sisters, Eva Györgyné Pàpai and Stella Saborsky.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her father, Stephan Saborsky.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were Eugen Saborsky and Stephan Saborsky, who resided in Budapest, Hungary. The Bank's record indicates that the Account Owners held one savings account, numbered 53817, which was closed on 29 March 1940. The Bank's record further indicates that the Account Owners held two custody accounts, numbered L 2031 and L 46507, which were closed on 13 July 1938 and 30 March 1940, respectively. The amounts in the accounts on the dates of their closures are unknown. In addition, the Bank's record does not show to whom the accounts were paid. There is no evidence in the Bank's record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's uncle's name and country of residence match the published name and country of residence of Account Owner Eugen Saborsky. The Claimant identified Account Owner Eugen Saborsky's city of residence as Budapest, which matches unpublished information about Account Owner Eugen Saborsky contained in the Bank's record. In addition, the Claimant identified Account Owner Stephan Saborsky's name and city and country of residence, which matches unpublished information about Account Owner Stephan Saborsky contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including her sister's birth certificate, identifying her father as István Saborsky, and specifying that he resided in Budapest; her uncle's birth certificate, identifying him as Eugen Saborsky; a handwritten will, signed by Eugen Saborsky, identifying Stefan Saborsky as his brother; and a court decision regarding her uncle's estate, identifying him as Jenó Saborsky, of Budapest. These documents provide independent verification that the persons who are claimed to be Account Owner Eugen Saborsky and Account Owner Stephan Saborsky had the same names and resided in the same city recorded in the Bank's record as the names and city of residence of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Stephan Saborsky, and indicates that he was a cattle merchant from Vienna, which matches the information about Account Owner Stephan Saborsky provided by the Claimant. In addition, the database includes a person named Eugen Saborsky, and indicates that he was a cattle merchant from Vienna, which matches information about Account Owner Eugen Saborsky provided by the Claimant. The CRT notes that, although the database states that Eugen Saborsky was born on 13 February 1883, and the Claimant indicated that Account Owner Eugen Saborsky was born on 19 February 1883, the remaining information is sufficiently similar to render it plausible that the person identified in the database and Account Owner Eugen Saborsky are the same person. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT further notes that the name Eugen Saborsky appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably those of victims of Nazi persecution. Moreover, the CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Account Owner Stephan Saborsky, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons to be probably 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 relative, 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 her 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. Finally, the CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that the Vienna branch of their business, which they co-managed, was aryanized in July 1938. Moreover, the Claimant stated that Account Owner Eugen Saborsky was beaten to death by Nazis in Budapest, Hungary in November 1944. As noted above, persons named Stephan Saborsky and Eugen Saborsky were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Stephan Saborsky was the Claimant's father, and that Account Owner Eugen Saborsky was the Claimant's paternal uncle. These documents include a court decision regarding her uncle's estate, identifying him as Jenó Saborsky, István Saborsky as his deceased brother, and the Claimant as one of István Saborsky's children. There is no information to indicate that the Account Owners have other surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the accounts was jointly owned by the Account Owners, who were co-managers of a company with a branch located in Vienna; that the Vienna branch of the company was aryanized during July 1938, the same month the custody account numbered L 2031 was closed, and four months after Austria was incorporated into the Reich annexed (the "*Anschluss*"); that the custody account numbered L 46507 and the savings account numbered 53817 were closed after the Anschluss; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their account 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 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 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 Owners were her father and uncle, and

those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of one of the claimed accounts.

Amount of the Award

In this case, the Account Owners held three accounts, two custody accounts and one savings 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF") and the average value of a savings account was SF 830.00. Thus, the total 1945 average value of the accounts at issue is SF 26,830.00. 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 335,375.00.

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. Here, Account Owner Stephan Saborsky's wife is deceased, and Account Owner Eugen Saborsky was divorced, and had no children. Moreover, the Claimant is representing her sisters, Eva Györgyné Pàpai and Stella Saborsky. Accordingly, the Claimant and her sisters are each entitled to one-third of the total award amount.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
10 December 2004