

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ursula Heine
also acting on behalf of Wolfgang Ebel

in re Account of Olga Ebel

Claim Number: 201603/PY

Award Amount: 27,500.00 Swiss Francs

This Certified Award is based upon the claim of Ursula Heine, née Ebel, (the “Claimant”) to the account of Olga Ebel (the “Account Owner”) at the [REDACTED] (the “Bank”).

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her mother, Olga Ebel, née Angress, who was born in 1901 in Poppelau, Germany (now part of Poland), and was married Bernhard Ebel in 1927. According to information from the Claimant, Olga and Bernhard Ebel lived at Kleinfeldstrasse 3 in Beuthen, Germany (today known as Bytom, Poland). The Claimant stated that her mother was Jewish and that her parents were arrested by the Nazis in November 1938 during *Kristallnacht* (Night of Broken Glass). The Claimant further stated that her mother fled Germany with her family after her release from prison in 1938 and immigrated to Montevideo, Uruguay, where they lived until 1951 when they moved to Sao Paulo, Brazil. The Claimant indicated that the police released her parents because they already had permission to leave the country. The Claimant further indicated that her father had a distant cousin, whose last name was Horowitz, who lived in Luzern, Switzerland and who may have helped her parents open a Swiss bank account. The Claimant stated that Olga Ebel died on 7 October 1991 in Sao Paulo and that Bernhard Ebel died on 2 January 1993, also in Sao Paulo. In support of her claim, the Claimant submitted her and her brother's birth certificates, which indicate that their parents were Olga and Bernhard Ebel, and her parents' German passports, which were signed by them and indicate that they both resided in Beuthen. The Claimant indicated that she was born on 9 October 1928 in Beuthen. The Claimant is representing her brother, Wolfgang Ebel, who was born on 1 November 1930, also in Beuthen.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, a declaration of consent from the Account Owner's husband, and printouts from the Bank's database. According to these records, the Account Owner was Olga Ebel, née Angress, and the Power of Attorney Holder was her husband, Bernhard Ebel, both of whom resided at Kleinfeldstrasse 3 in Beuthen, Germany. The Bank's records indicate that the Account Owner held a time-deposit account, which was opened no later than 26 July 1930.

The Bank's records do not indicate when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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 the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her parents' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimant identified his mother's maiden name, his parents' city of residence and their street address, and the relationship between the Account Owner and the Power of Attorney Holder, all of which matches unpublished information about the Account Owner and Power of Attorney Holder contained in the Bank's records. The Claimant also submitted samples of her parents' signatures, which match the signature samples contained in the Bank's records. In support of her claim, the Claimant submitted her birth certificate, identifying her parents as Olga and Bernhard Ebel. The CRT notes that there are no other claims to this account. 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 plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that she was arrested by the Nazis during *Kristallnacht* (Night of Broken Glass), and that she fled Germany for Uruguay after her release from prison.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she and her brother, whom she represents, are related to the Account Owner by submitting documents, including her and her brother's birth certificates, indicating that they are the children of the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate the Account Owner and Power of Attorney Holder were German nationals with an address in Germany. Given the Nazi enforcement of flight taxes and the Nazi campaign to confiscate the domestic and foreign assets of its Jewish nationals; that the Account Owner and Power of Attorney Holder resided in Germany until 1938 and would not have been able to repatriate the Account Owner's assets without their confiscation; that the Account Owner and Power of Attorney Holder were arrested by the Nazis in 1938 and fled to Uruguay after their release; that there is no record of the payment of the Account Owner's account to her, to the Power of Attorney Holder, or to the Account Owner's heirs; that the Account Owner or her heirs would not have been able to obtain information about her 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 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 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 her mother, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one time-deposit account, which is considered to be an account of other type under the Rules. 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 ICEP Investigation, in 1945 the average value of an account of other type was 2,200.00 Swiss Francs. 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 27,500.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the spouse of an account owner has not submitted a claim, the award shall be in favor of any descendants of the account owner, in equal shares by representation. The Claimant is representing her brother in these proceedings. Accordingly, the Claimant and her brother are each entitled to one-half 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
6 February 2004