

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Bernard Perl

and Claimants [REDACTED 2],

[REDACTED 3],

and [REDACTED 4]

in re Account of Egon Ehrenstein

Claim Numbers: 003844/BE; 209747/BE; 770693/BE;¹ 601278/BE²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) to the published account of Egon Ehrenstein and upon the claim of [REDACTED 4], née [REDACTED 4], (“Claimant [REDACTED 4]”) (together the “Claimants”) to the unpublished account of Rudolph Ehrenstein. This Award is to the unpublished account of Egon Ehrenstein (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).³ The account awarded is from the Total Accounts Database (“TAD”) at the Bank.

¹ [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted two Initial Questionnaire (“IQs”), numbered ENG-0025133 and ENG-0262107, 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 that 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 IQs were forwarded to the CRT and have been assigned claim number 770693 and 776861. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 770693.

² [REDACTED 4] (“Claimant [REDACTED 4]”) submitted a claim, numbered B-01627 on 29 January 2001 to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601278.

³ In separate decisions, the CRT awarded other accounts belonging to Egon Ehrenstein to Claimant [REDACTED 3] and Claimant [REDACTED 4] and found that Claimant [REDACTED 1] and Claimant [REDACTED 2] were not entitled to those accounts. See *In re Accounts of Egon Ehrenstein and Selma Ehrenstein* (approved on 31 August 2005) and *In re Accounts of Egon Ehrenstein* (approved on 31 December 2005).

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 relative, Egon Ehrenstein, who was born on 30 October 1898, and was married to [REDACTED], née [REDACTED], in Bucharest, Romania. Claimant [REDACTED 1] indicated that [REDACTED] was his mother's sister and Egon Ehrenstein's second wife. Claimant [REDACTED 1] further indicated that Egon Ehrenstein, who was Jewish, resided in Bucharest at 35, Brătianu Boulevard, then at 16, Sixth of March Boulevard, and finally on Drumul Taberei Boulevard, and that he was the director of a bank. Claimant [REDACTED 1] indicated that Egon Ehrenstein passed away on 29 March 1982. In support of her claim, Claimant [REDACTED 1] submitted a copy of her birth certificate, her mother's birth certificate, and her father's birth certificate.

Claimant [REDACTED 1] indicated that she was born on 16 September 1937 in Tulcea, Romania.

Claimant [REDACTED 2]

Claimant [REDACTED 2], who is Claimant [REDACTED 1]'s cousin, submitted a Claim Form identifying the Account Owner as his relative, Egon Ehrenstein, who was born in 1898, in Bucharest, Romania. Claimant [REDACTED 2] indicated that Egon Ehrenstein was married to [REDACTED], who was his father's sister. Claimant [REDACTED 2] further indicated that Egon Ehrenstein, who was Jewish, resided in Bucharest and was the owner and director of a bank that was nationalized by the Romanian government during the Second World War. Claimant [REDACTED 2] indicated that Egon Ehrenstein passed away in 1982. Claimant [REDACTED 2] further indicated that Claimant [REDACTED 1] is his cousin. In support of his claim, Claimant [REDACTED 2] submitted a copy of his Romanian identity card.

Claimant [REDACTED 2] indicated that he was born on 6 July 1938 in Braila, Romania.

Claimant [REDACTED 3] and Claimant [REDACTED 4]

Claimant [REDACTED 3] submitted an Initial Questionnaire ("IQ") to the Court in 1999 identifying Account Owner Egon Ehrenstein as his cousin, Egon Ehrenstein, who was born in the 1890s and resided in Bucharest, Romania. Claimant [REDACTED 4], who is Claimant [REDACTED 3]'s sister, submitted a claim to the Holocaust Claims Processing Office ("HCPO") identifying her father, Rudolph Ehrenstein, as the owner of assets deposited in Swiss banks. Claimant [REDACTED 4] indicated that her father was born on 4 February 1877 in Skalica, Czechoslovakia. Claimant [REDACTED 3] indicated that Egon Ehrenstein was the son

of their father's brother, [REDACTED]. Claimant [REDACTED 3] indicated that Egon was married to [REDACTED], who was born in the 1880s and who died approximately in 1963, and that they had no children. According to Claimant [REDACTED 3], Egon and [REDACTED], who were Jewish, managed to survive the Second World War in Romania, where they remained after the War. Claimant [REDACTED 3] stated that his cousin and his cousin's father lost everything under Romania's communist dictatorship.

In support of their claims, the Claimants submitted a copy of Claimant [REDACTED 4]'s birth certificate, indicating her name as [REDACTED 4], and her father as [REDACTED]; a copy of Claimant [REDACTED 3]'s birth certificate, indicating his name as [REDACTED 3], and his father as [REDACTED]; a detailed family tree, indicating that Egon Ehrenstein was their cousin; letters from [REDACTED], addressed to Claimant [REDACTED 3], one of which indicates Egon Ehrenstein's address in Bucharest; a letter from Egon Ehrenstein addressed to Claimant [REDACTED 3]; and correspondence with the HCPO, which is more fully detailed below.

On 3 August 2005, the HCPO forwarded an account card for assets held by Egon Ehrenstein at the London branch of the Bank that had been confiscated as enemy property, as well as a decision, dated 17 January 2003, regarding the Claimants' claim to these assets, from the Enemy Property Claims Assessment Panel ("EPCAP").⁴ In that decision, the EPCAP Panel recognized that the owner of the assets was the Claimants' relative, but declined to award them the assets, because another family member, [REDACTED], had a closer family relationship to the original owner. According to the reasons supporting the EPCAP decision, [REDACTED]'s father was Egon Ehrenstein's brother. According to these documents, in 2003, [REDACTED] resided in Vienna, Austria.

Claimant [REDACTED 3] indicated that he was born on 17 February 1918 in Vienna, and Claimant [REDACTED 4] indicated that she was born on 5 June 1923, also in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a list of accounts. According to this record, the Account Owner was *Direktor* (Director) Egon Ehrenstein, who resided in Bucharest, Romania. The Bank's record indicates that the Account Owner held an account, numbered 67039, the type of which is not indicated.

The Bank's record indicates that the account was transferred on 26 September 1941 to an unnamed recipient in Zug, Switzerland, and that following the transfer, it was closed. The amount in the account on the date of its transfer and closure is unknown.

There is no evidence in the Bank's records that the Account Owner or their heirs closed the accounts and received the proceeds themselves.

⁴ The CRT notes that this account was awarded to Claimant [REDACTED 3] and Claimant [REDACTED 4] in the 31 August 2005 decision.

These accounts were not part of the Account History Database (“AHD”) at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the Independent Committee of Eminent Persons (“ICEP”) auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,⁵ are composed of 1.9 million savings accounts with unknown values or a 1930-1940s value of 250.00 Swiss Francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is, within the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution.

The accounts awarded are part of a group of accounts identified in the TAD.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 3] and Claimant [REDACTED 4] have plausibly identified the Account Owner. Claimant [REDACTED 3]’s and Claimant [REDACTED 4]’ cousin’s name and city and country of residence match the name and city and country of residence of the Account Owner. Claimant [REDACTED 3] and Claimant [REDACTED 4] submitted letters from Egon Ehrenstein’s father, [REDACTED], addressed to Claimant [REDACTED 3], one of which indicates Egon Ehrenstein’s address in Bucharest; and a letter from Egon Ehrenstein addressed to Claimant [REDACTED 3]. These documents provide independent verification that the person who is claimed to be Account Owner Egon Ehrenstein had the same name and resided in the same city as the Account Owner, as indicated in the Bank’s records.

Claimant [REDACTED 1] and Claimant [REDACTED 2] have also plausibly identified the Account Owner. Claimant [REDACTED 1]’s and Claimant [REDACTED 2]’s relative’s name matches the name of the Account Owner. Moreover, the CRT notes that the information submitted by Claimant [REDACTED 1] and Claimant [REDACTED 2] matches both the information provided by Claimant [REDACTED 3] and Claimant [REDACTED 4]. The information provided by the Claimants indicates that Claimant [REDACTED 1]’s and Claimant

⁵ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

[REDACTED 2]'s relative is the same person as Claimant [REDACTED 3]'s and Claimant [REDACTED 4]'s cousin.

The CRT notes that there are no other claims to this account.

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. Claimant [REDACTED 2] and Claimant [REDACTED 3] stated that the Account Owner was Jewish and that he lived in Nazi-allied Romania during the Second World War.

The Claimant's Relationship 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 was the husband of Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s aunt and the cousin of Claimant [REDACTED 3] and Claimant [REDACTED 4]. Furthermore, Claimant [REDACTED 3] submitted copies of: (1) Claimant [REDACTED 4]'s birth certificate, indicating that [REDACTED 4]'s father is [REDACTED]; (2) a copy of his own birth certificate, indicating that [REDACTED 3]'s father is [REDACTED]; (3) a detailed family tree, indicating that Egon Ehrenstein was the cousin of [REDACTED 3] and [REDACTED 4]; (4) letters from [REDACTED], addressed to [REDACTED 3]; and (5) a letter from Egon Ehrenstein addressed to [REDACTED 3]. These documents provide independent verification that Claimant [REDACTED 3], Claimant [REDACTED 4] and their relatives bore the same family name as the Account Owner, and support the plausibility that [REDACTED 3] and Claimant [REDACTED 4] are related to the Account Owner, as they have asserted in their Claim Forms. The CRT further 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The CRT notes that, according to the 2003 EPCAP decision, [REDACTED], who is Egon Ehrenstein's nephew, is alive and lives in Vienna. However, the CRT has not received any claims from him or from any other relatives of the Egon Ehrenstein, and will therefore not treat his potential entitlement to the Account Owner's account in this decision. .

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to an unknown recipient in Zug, Switzerland, on 26 September 1941, and that it was subsequently closed.

Given that there is no record of the payment of the Account Owner's account to him; that the recipient of the assets in this account is not named in the Bank's records; that the Account Owner and his heirs would not have been able to obtain information about his 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), (i) 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 his 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that the Account Owner was their aunt's husband, and Claimant [REDACTED 3] and Claimant [REDACTED 4] have plausibly demonstrated that the Account Owner was their cousin, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 3] and Claimant [REDACTED 4], as the Account Owner's cousins, have a better entitlement to the account than Claimant [REDACTED 1] and Claimant [REDACTED 2], the Account Owner's wife's niece and nephew.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 ICEP (the "ICEP Investigation"), in 1945 the average value of an account of unknown type was 3,950.00 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 49,375.00.

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the account owner's spouse nor any descendants of the account owner have submitted a claim, the award shall be in favor of any descendants of the account owner's grandparents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 3] and Claimant [REDACTED 4], who are the cousins of Egon Ehrenstein, are the descendants of the Account Owner's grandparents and therefore are more entitled to the accounts than Claimant [REDACTED 1] and Claimant [REDACTED 2], who are related to the Account Owner by marriage only. Accordingly, Claimant [REDACTED 3] and Claimant [REDACTED 4] are entitled to equal shares of the Award amount, or SF 24,687.50 each. Claimant [REDACTED 1] and Claimant [REDACTED 2] are not entitled to any portion 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
10 November 2007