

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Dr. Kurt Feuer
also acting on behalf of Zvi-Herbert Feuer and Naomi Feuer

in re Accounts of Berta Eiding and N. Eiding

Claim Number: 000338/AH¹

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claim of Dr. Kurt Feuer (the “Claimant”) to the account of Berta Eiding. This Award is to the account of Berta Eiding ("Account Owner Berta Eiding") and to the account of N. Eiding (“Account Owner N. Eiding”) at the Zurich branch of 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 has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owners, Berta Eiding and Natan Eiding, as the aunt and uncle of his late wife. The Claimant indicated that Berta Chaja Eiding, née Fischler, who was born in Romania, was the sister of Hersch Fischler, the Claimant’s wife’s father. The Claimant also indicated that Berta Eiding was married to Natan Eiding, who was born on 3 August 1879 in Romania. The Claimant further indicated that his wife's aunt and uncle lived in Vienna, Austria, where his wife's uncle worked, and that they had one daughter, Dora Eiding, who was born on 7 August 1905 in Radaici, Romania, and who never married nor had children.

The Claimant explained that sometime between 1941 and 1944, his wife’s aunt and uncle, and their daughter, who were Jewish, fled from Austria to Zurich, Switzerland, where they lived at 78 Platenstrasse. The Claimant also explained that Berta Eiding stayed in close contact with the Claimant's wife, Kaette Serafina Feuer, née Fischler, and visited their house several times. The Claimant further explained that Natan Eiding died on 13 March 1945 and that Berta Chaja Eiding died on 19 October 1964, both in Switzerland, and that their daughter, Dora, died on 20 October 1990 also in Switzerland.

¹ The Claimant provided some of his relatives’ names only in Hebrew characters in the Claim Form. For the purpose of this written decision, the CRT has transliterated these names into Latin characters. However, to match names provided in the Claim Form with names contained in the banks’ databases, the CRT has used a database created by Yad Vashem, Israel, which provided different variations in Latin characters for each of the names.

The Claimant indicated that he was married to Kaette Serafina Feuer, née Fischler, the Account Owners' niece, and submitted a letter of explanation indicating that following the death of Dora Eiding, the Claimant, his wife, and his wife's brother, Jacob Fischler, who were the sole heirs of Dora Eiding, corresponded with the Swiss authorities trying to retrieve her estate, and were acknowledged as her heirs. The Claimant indicated that his wife died on 2 February 1994 in Petach Tikva, Israel.

In support of his claim, the Claimant submitted various documents, including a notice published by the Zurich court for the heirs to the estate of Dora Eiding, the daughter of Berta Eiding; an application by the Claimant's wife to the court to be recognized as the heiress of Dora Eiding's estate; the death certificate and will of Kaette Serafina Feuer, in which the Claimant was appointed as her sole heir. The Claimant also submitted his own identity card from the Transnistria concentration camp, where his family had been deported. The Claimant indicated that he was born on 11 November 1927 in Cernowitz, Romania. The Claimant is representing his son, Zvi-Herbert Feuer, who was born on 26 June 1958 in Romania, and his daughter, Naomi Feuer, who was born on 24 October 1964 in Israel.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account deposited by Dora Eiding or his late wife's aunt and uncle, Berta and Natan Eiding.

Information Available in the Bank's records

Account Owner Berta Eiding's Account

The Bank's record consists of an account statement. According to this record, the Account Owner was Berta Eiding. The Bank's record does not contain any information about the Account Owner's place of residence. The Bank's record indicates that the Account Owner held an account of unknown type. According to the Bank's record, the account was transferred on 21 November 1941 to a suspense account for dormant assets. The amount in the account on the date of its transfer was 40.20 Swiss Francs.

The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record 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 record that the Account Owner or her heirs closed the account and received the proceeds themselves.

Account Owner N. Eidingers Account

The Bank's record consists of an extract from a suspense account ledger. According to this record, the Account Owner was N. Eidingers. The Bank's record does not indicate the Account Owner's place of residence. The Bank's record indicates that the Account Owner held an account of unknown type. The account was transferred to a suspense account for dormant assets on 21 November 1941. The amount in the account on the date of its transfer was 44.30 Swiss Francs.

The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record 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 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 record that the Account Owner or his 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 Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Nathan Eidingers, numbered 35417. The records indicate that Nathan Eidingers was Jewish, was born on 18 December 1878, resided in Schuberting 3 in Vienna I, had an additional address in Zurich, and was married to Bertha Eidingers, née Fischler, who was also Jewish. The records further indicate that he owned bank accounts and securities in Vienna and Romania, as well as various assets. These records, however, make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owners. His wife's aunt's name matches the published name of Account Owner Berta Eidingers and his wife's uncle's first initial and last name match the first initial and last name of Account Owner N. Eidingers. The CRT notes that the Bank's records only contain the names of the Account Owners. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Nathan Eidingers and indicates that his place of birth was Radautz and that he resided in Vienna, which matches the information about Account Owner N. Eidingers provided by the Claimant. The database also includes a person named Dora Eidingers, and indicates that she was born on 7 August 1905 in Radautz and resided in Vienna, which also matches the information about the Account Owners' daughter provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT also notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account deposited by Dora Eidingen or his wife's aunt and uncle, Berta and Natan Eidingen, 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 individuals identified on the ICEP List as owning a Swiss bank account bear the same name as his relatives, 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 relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

In support of his claim, the Claimant submitted various documents, including a notice published by the Zurich court for the heirs to the estate of Dora Eidingen, the daughter of Berta Eidingen; an application by the Claimant's wife to the court to be recognized as the heiress of Dora Eidingen's estate; and the death certificate and will of Kaette Serafina Feuer, in which the Claimant was appointed as her sole heir. Finally, the CRT notes that the other matches to this account were disconfirmed as technical matches. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

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, who were Jewish, fled Austria due to the rise of Nazi persecution. As noted above, persons named Nathan Eidingen and Dora Eidingen, the Account Owners' daughter, were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents and specific information demonstrating that his late wife was the niece of the Account Owners. These documents include a notice published by the Zurich court for the heirs to the estate of Dora Eidingen, the daughter of Berta Eidingen; an application by the Claimant's wife to the court to be recognized as the heiress of Dora Eidingen's estate; and the death certificate and will of Kaette Serafina Feuer, in which the Claimant was appointed as her sole heir. There is no information to indicate that the Account Owner has other surviving heirs except for the Claimant, the parties which the Claimant is representing in these proceedings, and his late wife's brother, Jacob Fischler, who to date has not submitted a claim the CRT.

The Issue of Who Received the Proceeds

According to the Bank's records, Account Owner Bertha Eidingen's and Account Owner N. Eidingen's accounts were transferred to a suspense account for dormant assets on the same date, 21 November 1941. The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. The ICEP did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. Given this information and that the Account Owners and their child were

persecuted by the Nazis, as evidenced by the Austrian State Archives concerning the assets of Nathan Eidingger, before they fled Austria; that there is no record of the payment of the Account Owners' accounts to them or their heirs; that the Account Owners or their 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 (a), (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 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 the aunt and uncle of his late wife, and those relationships justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Berta Eidingger held one account of unknown type and Account Owner N. Eidingger held one account of unknown type. The Bank's records indicate that the value of Account Owner Berta Eidingger's account as of 21 November 1941 was 40.20 Swiss Francs and that the value of Account Owner N. Eidingger's account as of 21 November 1941 was 44.30 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the amount of the award is determined by multiplying this value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is 98,750.00 Swiss Francs.

Division of the Award

According to the principles of distribution set forth in Article 23 of the Rules, an Award will provide for an equal division among the children of the Account Owner's parents or their descendants who have submitted claims to the account. According to Article 23(g) of the Rules, 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, although the Claimant is representing his children, Zvi-Herbert Feuer and Naomi Feuer, the Claimant, who is related to the Account Owners through marriage, as the husband and heir of the Account Owner's niece, and as the sole relative who has submitted a claim to this account, shall

be entitled to receive the total award amount. The CRT notes that the Claimant submitted the will of Kaette Serafina Feuer, the Account Owners' niece, in which the Claimant was appointed as her sole heir. Consequently, the Claimant is entitled to 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 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
8 April 2004