

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Account of Felix Eisenstaedt

Claim Number: 204645/HS

Award Amount: 91,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (formerly [REDACTED]) (the “Claimant”) to the published account of Felix Eisenstädt¹ (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).

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 a Claim Form identifying the Account Owner as his cousin, Felix (Feivel) Eisenstaedt. The Claimant stated that Felix Eisenstaedt was the son of the Claimant’s great-aunt, who was the sister of the Claimant’s paternal grandmother, [REDACTED], née [REDACTED]. The Claimant further stated that Felix Eisenstaedt lived in Skole, Poland. The Claimant indicated that shortly after he was born, his cousin, who was Jewish, was his *Sandek*, the person who held him during his *bris*, or ritual circumcision, on 8 September 1924, and that he gave the Claimant’s mother a gold coin as a gift. The Claimant further indicated that when he was a boy, he heard his parents speak of his cousin. The Claimant explained that he and his family lived in Drohobycz, Poland, and that the Claimant’s father’s brother, [REDACTED], used to visit Felix Eisenstaedt in Skole, which was located nearby. The Claimant further explained that Felix Eisenstaedt immigrated to a Western country, possibly Belgium, and that his family lost contact with him after the outbreak of the Second World War. According to the Claimant, his family was unable to save family documents when they fled from the advancing Nazis, and that he is therefore unable to provide more detailed information about his relative.

¹ The CRT notes that “ae” is used as an equivalent of “ä.” Therefore, the Account Owner's last name can be spelled “Eisenstaedt” or “Eisenstaedt.”

In support of his claim, the Claimant submitted documents pertaining to himself, his paternal uncle [REDACTED] and other relatives, including [REDACTED]'s identity card and the Claimant's own birth certificate, indicating that the Claimant's father's side of the family resided in Drohobycz. The Claimant also submitted a family tree and a photograph bearing the stamp "Pamiatka ze Skolego" (souvenir from Skole), in which the Claimant identified his uncle, [REDACTED]. The Claimant's birth certificate shows that he was born on 1 September 1924 in Drohobycz.

The Proceedings Before the Claims Resolution Tribunal for Dormant Accounts in Switzerland ("CRT I")

The Claimant submitted an ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by the Account Owner, Felix Eisenstaedt from Skole-Groedlow, Poland, whose name was included in the list of dormant accounts published by the Swiss Bankers' Association in July 1997. A final decision was rendered by the Sole Arbitrator at the Claims Resolution Tribunal for Dormant Accounts in Switzerland (the "Sole Arbitrator") in an arbitration concluded on 5 October 1999 (the "Arbitration"). The Sole Arbitrator determined that the Claimant was not entitled to the assets in the account, as the Claimant's degree of relationship to the Account Owner was not "one that would normally give rise to a presumption of inheritance, in the absence of more detailed information regarding the descendants and other family members of that relative, or the distribution of the estate of that relative." In the Arbitration, the Sole Arbitrator found that it was not plausible that any of the claimants to Felix Eisenstaedt's account were entitled to the account.

The Bank's records submitted by the Bank in the Arbitration consisted of a rental contract for a safe deposit box, a customer card, a safe deposit box registry card, a protocol regarding a deposit into the safe deposit box, a notary protocol regarding the movement of the contents of the safe deposit box to a new safe deposit box, bank correspondence, and internal bank documents. According to these records, the Account Owner was Felix Eisenstaedt, who resided in Demnia Wyzna in the district of Skole-Groedlow, Poland. The Bank's records indicate that the Account Owner rented a safe deposit box, numbered 1267, on 24 March 1936, and that the Account Owner left his key to the safe deposit box in the Bank's custody. The Bank's records indicate that the Account Owner deposited 4,200.00 French Francs ("*napoléons*") in gold coins in the safe deposit box on 30 November 1936. Further, the Bank's records indicate that the Account Owner instructed the Bank to open the safe deposit box and to transfer these gold coins to his account at the *Bank Polski* in Warsaw, Poland, in February 1939.

According to the Bank's records, the rental fees for the safe deposit box were paid by the Account Owner for the period until 16 March 1939. In order to cover the accrued fees, the Bank opened the safe deposit box on 14 November 1950 and determined that it contained 240 French gold coins, each with a face value of 20.00 French Francs. The Bank sold 20 coins and used the proceeds to pay for the fees for the period from March 1939 until March 1957. On 13 November 1957, the Bank opened the safe deposit box, sold 10 coins, and used the proceeds to pay for the rental fees for the period from March 1957 to March 1967. In March 1962, the Bank moved the contents of the safe to a smaller safe deposit box, numbered 5705. On 16 January 1970, the

Bank opened the safe deposit box again and sold 10 coins to pay for the fees from March 1967 to March 1975. On 10 November 1994, the Bank opened the safe again, this time selling 70 coins in order to pay for fees from March 1975 to 30 June 2011. The Bank's records indicate that the account is open and dormant.

The Claimant also previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Felix Eisenstaedt from Skole, Poland, and at that time submitted a copy of the opening contract of the safe deposit box, which was provided to him at the time of the Arbitration.

Information Available in the Bank's Records

The Bank's records before the CRT provided by the auditors who carried out the investigation of the Bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation") consist of an internal Bank memorandum regarding the administration of safe deposit boxes and a list, dated 31 August 1950, of safe deposit boxes. These records show that the Account Owner was Felix Eisenstaedt of Skole-Groedlow, Poland, who held a safe deposit box at the Bank, numbered 1267.

The CRT's Analysis

Identification of the Account Owner

The Claimant's relative's name and city of residence match the published name and city of residence of the Account Owner. The CRT notes that the name Felix Eisenstaedt appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution, and that there are no other claims to this account.

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, that he resided in Poland and then in Belgium or another Western country, and that his family lost contact with him after the outbreak of the Second World War. Furthermore, the CRT notes that the Bank did not hear from the Account Owner after February 1939.

The Claimant's Relationship to the Account Owner

In the Arbitration, the Sole Arbitrator determined that the Claimant was not entitled to the assets in the account as the Claimant's relationship to the Account Owner was not "one that would normally give rise to a presumption of inheritance, in the absence of more detailed information regarding the descendants and other family members of that relative, or the distribution of the estate of that relative." Although the Claimant was not found to be entitled to the Account

Owner's account in the Arbitration, the CRT determines that the Claimant has plausibly demonstrated that he is related to the Account Owner. The Claimant submitted biographical information and a family tree demonstrating that the Account Owner was his cousin. Additionally, the Claimant submitted family documents, including the identity card of his uncle, [REDACTED], and his own birth certificate, indicating that his father's side of the family lived in Drohobycz, which is less than 68 kilometers from the Account Owner's residence of Skole, and a photograph, indicating that his uncle, [REDACTED], visited Skole. The CRT notes that the information provided by the Claimant indicates that the Account Owner was well-known as a relative within the Claimant's family, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. The CRT further notes that the Claimant indicated that because of his family's flight from Poland to escape Nazi persecution, he no longer possesses any additional information that would further demonstrate his relationship to the Account Owner.

The Issue of Who Received the Proceeds

The Bank's records indicate that the safe deposit box account remains open and dormant.

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. Finally, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one safe deposit box. The Bank's records indicate that when the Bank opened the safe deposit box on 14 November 1950, the account contained 240 gold coins, each with a face value of 20 French Francs. According to the official rates used by Swiss tax authorities, in 1945 each of these coins was worth 30.50 Swiss Francs ("SF"). Accordingly, the value of the contents of the safe deposit box as of 1945 was SF 7,320.00. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount is SF 91,500.00.

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
18 August 2004