

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹
represented by Alon Hilton Price

in re Account of Eva Eisner

Claim Number: 501436/AV

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Eva Eisner (the “Account Owner”), over which Arnold Eisner (“Power of Attorney Holder Eisner”) and Helene Marcus (Power of Attorney Holder Marcus”) (together the “Power of Attorney Holders”) held power of attorney, at the Zurich branch of the [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 maternal grandmother, Eva Eisner, née Soldin, who was born on 13 November 1869 in Birnbaum, Germany, and was married to [REDACTED] on 28 December 1887 in Berlin, Germany. The Claimant stated that his grandmother, who was Jewish, was a housewife and resided at Cuxhavenerstrasse 7 in Berlin. The Claimant further stated that his grandfather owned a record-manufacturing business, *Artiphon Record*, which his grandmother took over after her spouse’s death in 1927. The Claimant stated that his grandmother died on 2 November 1932 in Berlin.

The Claimant stated that his grandparents had two children: Arnold Eisner, who was born on 26 September 1888 in Berlin, and the Claimant’s mother, Helene Marcus, née Eisner, who was born on 30 April 1891 in Berlin. The Claimant indicated that his mother was married three times. The Claimant stated that his mother’s first husband was [REDACTED], with whom she had one daughter, [REDACTED]. The Claimant further stated that [REDACTED] was killed in the First World War in 1917, and that [REDACTED] died at six years of age, during or soon after the

¹ In an email dated 1 February 2005, the Claimant’s representative informed the CRT that the Claimant died in October 2004, and later forwarded copies of the Claimant’s death certificate and will to the CRT.

First World War. The Claimant stated that his mother's second husband was [REDACTED], the Claimant's father. The Claimant indicated that his parents divorced, and that his mother then married [REDACTED]. According to the Claimant, when the Claimant was about thirteen years old, he and his mother fled from Berlin to South Africa to avoid Nazi persecution. The Claimant further stated that his maternal uncle, Arnold Eisner, also fled to South Africa. The Claimant stated that his uncle had one daughter, [REDACTED], who disappeared during the Holocaust. The Claimant indicated that Arnold Eisner died on 10 June 1945 in Johannesburg, South Africa, and that his mother died on 6 January 1974 in Johannesburg.

The Claimant submitted documents, including: (1) a copy of a menu from his grandparents' wedding banquet, indicating that *Frl.* (Miss) Eva Soldin married *Herr* (Mr.) [REDACTED]; (2) a copy of [REDACTED]'s will, dated 27 October 1926, indicating that his address was Cuxhavenerstrasse 7 in Berlin, that his spouse was Eva Eisner, née Soldin, that his son was [REDACTED], who was born on 28 September 1888, that his daughter was Helene Marcus, formerly Lesser, widowed Meyerheim, née Eisner, who was born on 30 April 1891, and that his grandson was [REDACTED]; and (3) his mother's will, indicating that Helene Marcus, née Eisner had a son named [REDACTED]. The Claimant's representative also submitted a copy of the Claimant's death certificate, indicating that [REDACTED], who was born on 30 November 1919 in Berlin, was the son of [REDACTED] and Helena Marcus. The Claimant indicated that he was born on 30 November 1919 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) Eva Eisner, who was born on 13 November 1870 and resided at Cuxhavenerstrasse 7 in Berlin, Germany; Power of Attorney Holder Eisner was Arnold Eisner, who was born on 28 September 1888 and resided at Bozenerstrasse 9 in Berlin; and Power of Attorney Holder Marcus was Helene Marcus, née Eisner, who was born on 30 April 1891 and resided at Prinz Regentenstrasse 85 in Berlin. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated. The Bank's records further indicate that the power of attorney form was executed on 8 May 1931, and that the power of attorney would become valid only after the death of the Account Owner.

The Bank's records do not show when the account at issue was closed, 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. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders, 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. The Claimant's grandmother's name and city and country of residence match the published name and city and country of residence of the Account Owner, the Claimant's uncle's name matches the published name of Power of Attorney Holder Eisner, and the Claimant's mother's name matches the published name of Power of Attorney Holder Marcus. The Claimant identified the Account Owner's street address, the Account Owner's date of birth, and the dates of birth of the Power of Attorney Holders, which matches unpublished information about the Account Owner and Power of Attorney Holders contained in the Bank's records.² In support of his claim, the Claimant submitted documents, including a copy of a menu from his grandparents' wedding banquet, indicating that Eva Soldin married [REDACTED], and a copy of his grandfather's will, identifying his wife as Eva Eisner and indicating her street address, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided at the same address recorded in the Bank's records as the name and address of the Account Owner. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Target of Nazi Persecution

The CRT notes that while the Account Owner was not a Victim of Nazi Persecution, the Account Owner's daughter and heir, who had power of attorney over the account after the death of the Account Owner, was a Victim of Nazi Persecution. The Claimant stated that the Account Owner's children fled from Berlin to South Africa to avoid Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandson. These documents include the Account Owner's spouse's will, identifying the Account Owner as his spouse and identifying the Claimant as his grandson. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner died on 2 November 1932; that the Account Owner's heirs fled from Germany to South Africa as a result of Nazi persecution; that there is no record of the payment of the Account Owner's account to her or to her heirs, nor any record of a date of closure of the account; that the Account Owner's 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

² The CRT notes that the Claimant indicated that his grandmother was born on 13 November 1869, and that the Bank's records indicate that the Account Owner was born on 13 November 1870. The CRT concludes that this slight discrepancy does not affect the plausibility of the Claimant's identification of the Account Owner.

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, the Power of Attorney Holders, 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 Estate 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 grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed account.

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 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.

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
23 February 2006