

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED] and [REDACTED]
represented by [REDACTED]

in re Accounts of Elie Eskénazi and Aron Eskénazi

Claim Numbers: 210099/AY; 214575/AY; and 217994/AY

Award Amount: 378,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Elie Eskénazi (“Account Owner Elie Eskénazi”), and to the accounts of Aron Eskénazi (“Account Owner Aron Eskénazi”) (together the “Account Owners”) at the Basel 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 three Claim Forms identifying Account Owner Aron Eskénazi as her paternal grandfather, Aron Rahamin Eskénazi; and Account Owner Elie Eskénazi as her father, Elie Raoul Eskénazi. The Claimant indicated that Aron Eskénazi was born on 25 September 1879 in Alep, Syria, and was married to [REDACTED], née [REDACTED] (or [REDACTED]). The Claimant stated that the couple had two children: [REDACTED], who was born on 4 March 1911 in Alep, and Elie, the Claimant’s father, who was born on 26 December 1918 in Alep, and was married to [REDACTED], née [REDACTED]. The Claimant stated that her family resided in Alep until 1919, when they moved to Paris, France, where they resided at rue de Prony until 1940, and then they subsequently moved to Lyon, France, where they resided at 2 rue Philippe de Lassale. According to the Claimant, Aron Eskénazi resided there until 1945, and then moved to rue de la République. The Claimant indicated that her grandfather, Aron Rahamin Eskénazi, who was Jewish, owned a textile factory that was confiscated by the Nazis. The Claimant further indicated that because of the antisemitic measures taken by the Vichy government in 1941 and then by the Germans, her grandfather and her father, who was also Jewish, had to go into hiding during the Nazi occupation of France to avoid Nazi persecution. The Claimant stated that her father, Elie Eskénazi, also had to adopt a false identity, and that in 1943 he left Lyon and made arrangements to voluntarily enlist in the British army from 1943 to 1946. The Claimant further

stated that after the end of the Second World War, her father returned to Lyon. According to the Claimant, her uncle, [REDACTED], died in 1943 in Lyon, her grandfather died on 8 May 1948 in Lyon, her mother died on 16 December 1999 in Lyon, and her father passed away on 18 May 2000 in Alix, France.

In support of her claims, the Claimant submitted documents, including her parents' family book, her father's identity card, her father's birth certificate, issued by the Jewish religious office in Lebanon (*Rabbinat*), and her parents' marriage certificate, which indicates that Elie Eskénazi was born in Alep, Syria, and was the son of Aron Eskénazi. The Claimant also submitted her own marriage certificate, which identifies her father as Elie Eskénazi; her siblings' marriage certificates; and a document issued by a notary public showing that the Claimant and her siblings, whom she is representing in these proceedings, are Elie Eskénazi's heirs.

The Claimant stated that she was born on 31 January 1947 in Lyon; and that her sisters, [REDACTED], née [REDACTED], and [REDACTED], whom the Claimant is representing in these proceedings, were born in Lyon on 5 July 1942 and 5 May 1950, respectively.

Information Available in the Bank's Records

Accounts of Elie Eskénazi

The Bank's record consists of a customer card. According to this record, the Account Owner was Elie Eskénazi, a Syrian national, who resided in Alep, Syria. The Bank's record indicates that Account Owner Elie Eskénazi held a demand deposit account, denominated in Swiss Francs, and a custody account, both of which were identified by the number 1180 and opened in June 1919.

The Bank's record does not show when the accounts at issue were closed, to whom they were paid, or the values of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors could not determine whether there had been activity on these accounts after 1945. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

In addition, the Bank's record indicates that Account Owner Elie Eskénazi is related to the owners of accounts No. 1225, 1227, and 1232, which were held at the Bank. On Account Owner Elie Eskénazi's account opening card for account No. 1180, the numbers 1225, 1227 and 1232 are written under the Relations header. The Bank's record neither indicates the name of the owners of these accounts, nor Account Owner Elie Eskénazi's relationship to these individuals. Furthermore, the CRT notes that there is no indication that the auditors identified accounts numbered 1225 and 1227 as part of the ICEP Investigation.

Accounts of Aron Eskénazi

The Bank's record consists a customer card. According to this record, the Account Owner was Aron Eskénazi, a Syrian national who resided in Alep, Syria, in June 1919. The Bank's record indicates that as of 16 November 1922, Account Owner Aron Eskénazi resided at 105 rue de Prony in Paris XVII, France. The Bank's record indicates that Account Owner Aron Eskénazi held a demand deposit account and a custody account, both identified by the number 1232, which were opened in June 1919.

The Bank's record does not show when the accounts at issue were closed, to whom they were paid, or the value of these accounts. The auditors who carried out the ICEP Investigation did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors could not determine whether there had been activity on these accounts after 1945. There is no evidence in the Bank's record that Account Owner Aron Eskénazi or his heirs closed the accounts and received the proceeds themselves.

The Bank's record indicates that Account Owner Aron Eskénazi was the brother of the owner of the accounts numbered 1180, which were held at the Bank. On Account Owner Aron Eskénazi's account opening card for accounts numbered 1232, "1180, brothers" is written under the Relations header. Thus, Account Owner Aron Eskénazi, who held accounts numbered 1232, and Account Owner Elie Eskénazi, who held accounts numbered 1180, were siblings according to the Bank's records.

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 three claims submitted by the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Elie Eskénazi and Account Owner Aron Eskénazi. Her father and grandfather's names match the published names of the Account Owners. Furthermore, the Claimant indicated that her grandfather resided in Alep, Syria, and from 1919 onward at rue de Prony in Paris, France, which matches both published and unpublished information about Account Owner Aron Eskénazi contained in the Bank's record. In support of her claims, the Claimant submitted her father's identity card, her father's birth certificate issued by the Jewish religious office in Lebanon (*Rabbinat*), and her parent's marriage certificate, which indicate that Elie Eskénazi was born in Alep, Syria, and is the son of Aron Eskénazi. In addition, the Claimant submitted her own marriage certificate, identifying her father as Elie Eskénazi. The CRT notes that the Bank's records indicate Aron and Elie Eskénazi were siblings, while the Claimant stated and submitted documents indicating that Aron and Elie

Eskénazi were father and son. Given that the Claimant has identified unpublished information about Account Owner Aron Eskénazi and has submitted documents demonstrating that Aron and Elie Eskénazi were father and son, the CRT concludes that it is plausible the Bank's records misstate the relationship between the Account Owners.

Furthermore, the CRT notes that there are no other claims to the accounts of Aron Eskénazi. The CRT notes that the other claim to the accounts of Account Owner Elie Eskénazi was disconfirmed because that claimant provided a different country of residence than the country of residence of Account Owner Elie Eskénazi.

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 were Jewish, that Elie Eskénazi and Aron Eskénazi had to go into hiding to avoid Nazi persecution during the Nazi occupation of France, and that the factory owned by Aron Eskénazi was confiscated by the Nazis.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting documents demonstrating that Elie Eskénazi is the son of Aron Eskénazi, and that she and her siblings are Elie Eskénazi's children and only heirs.

The Issue of Who Received the Proceeds

With regard to the accounts numbered 1225 and 1227, the CRT has decided not to reach a decision at this time, pending further investigation into the identity of the account owners and their relationship to Account Owner Elie Eskénazi, and further consideration as to whether or not the account owners or their heirs received the proceeds of these accounts.

With regard to the remaining accounts, given that the textile factory owned by Aron Eskénazi was confiscated by the Nazis, and it is plausible the Nazis confiscated other of his assets or those of his family; that there is no record of the payment of Account Owners' accounts to them; that the Account Owners lived in Vichy France during the War and would not have been able to repatriate their accounts during this period; that the Account Owners or their 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 inquires 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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 favour 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 her father and grandfather, and those relationships justify 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, the Account Owners held two demand deposit accounts and two custody accounts. 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs, and the average value of a custody account was 13,000.00 Swiss Francs. Thus, the 1945 average value of the four accounts at issue is 30,280.00 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 378,500.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Accounts Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her siblings in these proceedings. As descendants of the Account Owners, the Claimant and her siblings are each entitled to one-third (1/3) 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 claims 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