

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], represented by Perla Meyers,

and [REDACTED 2]

in re Accounts of Berta Stein and Antoinette Sachs

Claim Numbers: 210419/AX; 600246/AX¹

Award Amount: 444,068.75 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished accounts of Berta Stein (“Account Owner Stein”) and Antoinette Sachs (“Account Owner Sachs”) (together the “Account Owners”) at the Zurich branch of the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 Claimants

Claimant [REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owners as her mother-in-law Berta Stein (Steinova), née Sachs, who was born on 24 February 1889, in Blatna, Czechoslovakia (today, the Czech Republic), and her aunt, Antoinette (Antonie) Sachs (Sachsova), who was born on 25 December 1882 in Blatna. Claimant [REDACTED 1] stated that Berta Stein and Antoinette Sachs were sisters, that Berta Stein was married to [REDACTED], and that they had one child, [REDACTED], Claimant [REDACTED 1]’s late husband. Claimant [REDACTED 1] indicated that Berta Stein, who was Jewish, resided in Pilsen, Czechoslovakia (today, the Czech Republic). Claimant [REDACTED 1] stated that her aunt, Antoinette Sachs, who was Jewish, worked as a merchant and also resided in Pilsen. Claimant [REDACTED 1] indicated that both her mother-in-law and her aunt were deported to Auschwitz, where they perished on 11 March 1942.

¹ Claimant Stein submitted a claim, numbered B-00894, on 17 April 1998, 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 600246.

Claimant [REDACTED 2] also submitted a Claim Form identifying Account Owner Sachs as her aunt, Antoinette (Antonie) Sachs (Sachsova). Claimant [REDACTED 2] stated that she is the daughter of Antoinette Sachs' sister, [REDACTED], née [REDACTED]. Claimant [REDACTED 2] also stated that her aunt worked as a merchant and resided in Pilsen before she was deported to Auschwitz, where she perished on 11 March 1942.

The Claimants submitted photocopies of forms that Berta Steinova and Antonie Sachsova were required to fill out by the Czechoslovakian government in 1934 indicating all foreign assets that they owned. These forms indicate that Berta Steinova and Antonie Sachsova each held one custody account at the Zurich branch of the Bank.

These forms indicate that on 11 September 1934, Berta Stein held the following securities at the Bank:

- 3 1/2% *Schweizer. Bundesbahnen von 1899/1902* bonds with a total nominal value of 3,000.00 Swiss Francs ("SF");
- 3 1/2% *Schweizer. Bundesbahnen von 1910* bonds with a total nominal value of SF 6,000.00;
- 5% *Schweizer. Bundesbahnen von 1924* bonds with a total nominal value of SF 5,000.00.

According to these forms, on 11 September 1934, Antonie Sachs held the following securities at the Bank:

- 3 1/2% *Schweizer. Bundesbahnen von 1910* bonds with a total nominal value of SF 15,000.00;
- 5% *Schweizer. Bundesbahnen von 1924* bonds with a total nominal value of SF 5,000.00.

Furthermore, Claimant [REDACTED 1] submitted a letter from the Bank to the HCPO, dated 13 January 2000, documenting that Antoinette Sachs held two accounts with the Bank, both of which were closed. The Bank indicated that it would provide the HCPO with the relevant documents pending the HCPO's confirmation that there were no living immediate relatives (such as spouse, children or grandchildren) of Antoinette Sachs. There is no indication as to whether this information was provided to the Bank.

In support of her claim, Claimant [REDACTED 1] submitted a decision from the District Court in Tel Aviv, Israel, dated 24 October 1971, with regard to the estates of Berta Stein and Antoinette Sachs. The document indicates that [REDACTED 1] is the heir to the estate of Berta Stein, as her daughter-in-law, and that the estate of Antoinette Sachs is to be divided equally between (1) Claimant [REDACTED 1], (2) her sister, [REDACTED], and (3) a niece, the daughter of another one of her sisters. Additionally, Claimant [REDACTED 1] submitted her marriage certificate, showing that she was married to [REDACTED], the son of Berta Stein, and the will of [REDACTED], indicating Claimant [REDACTED 1] was his wife. Claimant [REDACTED 1] indicated that she was born on 2 May 1909 in Solotwina, Poland (today, the Ukraine). Claimant [REDACTED 2] indicated that she was born on 14 June 1925 in Opava, Czechoslovakia (today, the Czech Republic).

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her late husband, [REDACTED]. Claimant [REDACTED 2] previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Antoinette Sachs.

Information Available in the Bank's Records

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 report any accounts belonging to Berta Stein (Steinova) or Antoinette (Antonie) Sachs (Sachsova).

The CRT’s Analysis

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The Claimant’s relatives’ names match the unpublished names of Account Owner Stein and Account Owner Sachs. Claimant [REDACTED 1] submitted a decision from the District Court in Tel Aviv, Israel, dated 24 October 1971, with regard to the estates of Berta Stein and Antoinette Sachs, indicating that Claimant [REDACTED 1] is Berta Stein’s daughter-in-law, and that Claimant [REDACTED 2]’s mother, Elsa Ehrlich, was the sister of Antoinette Sachs. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, and perished in Auschwitz on 11 March 1942.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Sachs was the aunt of both of the Claimants, and Account Owner Stein was Claimant [REDACTED 1]’s mother-in-law, and Claimant [REDACTED 2]’s aunt. These documents include a decision from the District Court in Tel Aviv, Israel, dated 24 October 1971, with regard to the estates of Berta Stein and Antoinette Sachs, indicating that [REDACTED 1] is heir to the entire estate of Berta Stein, as her daughter-in-law, and that the estate of Antoinette Sachs is to be divided equally between Claimant [REDACTED 1], Claimant [REDACTED 2]’s mother, [REDACTED], and a niece. The CRT notes that it does not have a claim form from Antoinette Sachs’s niece, who was referred to in the decision from the District Court in Tel Aviv.

The Issue of Who Received the Proceeds

Given that the Account Owners perished in Auschwitz; that the Account Owners’ heirs would not have been able to obtain information about the 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 and heirs because of the banks' concerns

regarding double liability; and given the application of Presumption (h), 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 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 favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Stein was her mother-in-law, and that Account Owner Sachs was her aunt and those relationships justify an Award. Claimant [REDACTED 2] has plausibly demonstrated that both of the Account Owners were her aunts, and those relationships justify an Award. Third, 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 Stein held one custody account, and Account Owner Sachs held one custody account and one account of unknown type. With respect to the custody account held by Account Owner Stein, the records submitted by the Claimant indicate that the account contained bonds with a total nominal value of SF 14,000.00. The total market value of those bonds on 31 December 1934 was SF 13,145.50, as per attached spreadsheet. 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 an award amount of SF 164,318.75.

With respect to the custody account held by Account Owner Sachs, the records submitted by the Claimant indicate that this account contained bonds with a total nominal value of SF 20,000.00. The total market value of those bonds on 31 December 1934 was SF 18,430.00, as per attached spreadsheet. 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 an award amount of SF 230,375.00.

With respect to the account of unknown type held by Account Owner Sachs, 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 SF 3,950.00. 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 an award amount of SF 49,375.00 for this account.

The total award amount for these accounts is SF 444,068.75.

Division of the Award

Account Owner Stein

According to Article 23(2)(a) of the Rules, where a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. Claimant [REDACTED 1] submitted a decision from the District Court in Tel Aviv, Israel, dated 24 October 1971, with regard to the estate of Berta Stein, indicating that Claimant [REDACTED 1] is the sole heir to the estate of Berta Stein. Accordingly, Claimant [REDACTED 1] is entitled to the entire award for Account Owner Berta Stein's account.

Account Owner Sachs

Claimant [REDACTED 1] submitted a decision from the District Court in Tel Aviv, Israel, dated 24 October 1971, indicating that (1) Claimant [REDACTED 1], (2) Claimant [REDACTED 2]'s mother, Elsa Ehrlich, and (3) a niece, are each entitled to one-third of the estate of Antoinette Sachs. As noted above, according to Article 23(2)(a) of the Rules, where a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. As Claimant [REDACTED 1] is the only beneficiary named in the inheritance document who filed a claim, Claimant [REDACTED 1] would have better entitlement than Claimant [REDACTED 2] and be entitled to the total award amount with respect to the accounts belonging to Account Owner Sachs.

However, the CRT notes that it is likely that Account Owner Sachs' intent in the division of her estate was to evenly distribute her estate between three family branches, each representing one of her sisters.² Accordingly, the CRT could also construe the documents submitted as a broken chain of inheritance documents given the likely intentions of Account Owner Sachs with regard to the division of her estate and the absence of an inheritance document from Elsa Ehrlich connecting Claimant [REDACTED 2]. According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) of the Rules to make allowances for any missing links in the chain, consistent with principles of fairness and equity. According to Article 23(1)(d) 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 parents who have submitted a claim, in equal shares by representation. As such, as the niece of Account Owner Sachs, Claimant [REDACTED 2] would have a better entitlement than Claimant [REDACTED 1] and would be entitled to the total award amount with respect to the accounts belonging to Account Owner Sachs.

² The CRT notes that the document submitted provides for equal distribution of the Estate of Antoinette Sachs between (1) Claimant Stein, the wife of the son of her sister, Berta Stein; (2) [REDACTED], Claimant [REDACTED 2]'s mother and Antoinette Sachs' sister; and (3) the daughter of a third sister of Antoinette Sachs.

According to Article 27(1) of the Rules, in applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances. Given the aforementioned two opposing entitlement scenarios, the intention identified in Account Owner Sachs' inheritance document to distribute her estate equally, that the CRT does not have any inheritance documents from the niece identified in the submitted inheritance document, and pursuant to Article 27(1) of the Rules, the CRT awards both Claimant [REDACTED 1] and Claimant [REDACTED 2] one-half of the total award amount for Account Owner Sachs' accounts to achieve the result that is most fair and equitable under the circumstances.

Accordingly, Claimant [REDACTED 1] is entitled to the total award amount with respect to the account of Account Owner Stein, and to one-half of the total award amount with respect to the accounts of Account Owner Sachs, or SF 304,193.75. Claimant [REDACTED 2] is entitled to one-half of the total award amount with respect to the accounts of Account Owner Sachs, or SF 139,875.00.

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)

Certification of the Award

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

Claims Resolution Tribunal
13 October 2004