

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Julius Stein

Claim Numbers: 215823/WT; 220577/WT¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Alfred Stein, Georg Stein and Julius Stein,² and the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Norbert (Nathan) Stein.³ This award is to the unpublished account of Julius Stein (“the Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).⁴

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.

¹ Claimant [REDACTED 2] submitted one additional claim, which is registered under the Claim Number 220578. The CRT will treat this claim in a separate determination.

² The CRT did not locate an account belonging to Alfred Stein or Georg Stein in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

³ The CRT did not locate an account belonging to Norbert (Nathan) Stein in the Account History Database prepared pursuant to the ICEP Investigation.

⁴ The CRT notes that on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Julius Stein appears twice. Upon careful review, the CRT has determined that the persons named Julius Stein who appear on the ICEP List are not the same person addressed in the current decision and, consequently, Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) and Claimant [REDACTED 2] did not identify these other account owners as their relatives.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her paternal uncle, Julius Stein, who was the son of [REDACTED] and [REDACTED], née [REDACTED], and had six siblings: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] (Claimant [REDACTED 1]'s father). Claimant [REDACTED 1] indicated that her uncle, who was Jewish, lived in Gescher, Germany, and Berlin, Germany prior to the Second World War, and that his brothers lived in Germany and the Netherlands. Claimant [REDACTED 1] indicated that the details of her uncle's fate were unknown, but that her father perished in Auschwitz on 3 August 1942. Claimant [REDACTED 1] indicated that she is an only child.

Claimant [REDACTED 1] submitted copies of documents, including: (1) her paternal grandparents' last will and testament, dated 23 October 1928, indicating that [REDACTED] and [REDACTED 1] left their family store to their son Julius Stein and their house to [REDACTED], and that their residual estate was to be divided among their seven children in equal shares; and (2) her own birth certificate, issued by the municipal authority of Winterswijk on 20 October 1955, indicating that [REDACTED 1] was born on 15 October 1934, and that she was the daughter of [REDACTED] and [REDACTED].

Claimant [REDACTED 1] indicated that she was born on 15 October 1934 in Winterswijk, Holland.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her paternal uncle, Julius Stein, who was the son of [REDACTED] and [REDACTED], and the brother of [REDACTED] (Claimant [REDACTED 2]'s father). Claimant [REDACTED 2] indicated that her uncle, who was Jewish, owned a lacquer and paint factory in Meiningen, Germany, and that her father owned a similar store in Dresden, Germany. Claimant [REDACTED 2] indicated that the details of her uncle's fate are not known, but that she and her family were deported to Riga, Latvia on 21 January 1942. Claimant [REDACTED 2] indicated that her father, [REDACTED], was shot there on 27 July 1944, and that her mother, [REDACTED], perished there on 18 June 1942. Claimant [REDACTED 2] indicated that she had one brother, [REDACTED], who passed away in 1972.

Claimant [REDACTED 2] submitted copies of documents, including: (1) her mother's certificate of inheritance, issued by the district court of Hildesheim, Germany, indicating that the heirs of [REDACTED], née [REDACTED], were her husband [REDACTED], and her children, [REDACTED] and [REDACTED 2], née [REDACTED], with regard to claims of property located in the former East Germany; (2) her father's certificate of inheritance, issued by the district court of Hildesheim, Germany, indicating that the heirs of [REDACTED], were his children, [REDACTED] and [REDACTED 2], née [REDACTED], with regard to claims of property located in the former East Germany; (3) an application to the *Entschädigungsbehörde* (German Compensation Authority) from [REDACTED 2], dated March 1955, indicating that she

was born on 1 June 1931 in Dresden, that her father [REDACTED] owned a lacquer and paint factory, and that on 27 July 1944 he was shot in a labor camp in Riga; and (4) an attachment to the application to the Compensation Authority, dated 3 December 1954 and signed by Ludwig Levy, indicating that Ludwig Levy personally knew [REDACTED] and his brother Julius Stein, and that Julius Stein owned a lacquer and paint factory in Meiningen.

Claimant [REDACTED 2] indicated that she was born on 1 June 1931 in Dresden.

Claimant [REDACTED 2] previously submitted Initial Questionnaires to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Nathan (Norbert) Stein, or Toni Stein, née Spier.⁵

Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) did not report an account belonging to Julius Stein during their investigation of the Bank. The documents evidencing an account belonging to Julius Stein were obtained from the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (“the 1962 Survey”). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Julius Stein, numbered 830. These records indicate that the Account Owner was Julius Stein, whose last known residence was in Germany.

The documents indicate that the Account Owner held an account at the Zurich branch of the Bank. The records further indicate that the account had a balance of 317.00 United States Dollars (“US \$”) as of 1 September 1963. According to a document, dated 17 February 1964, this account was one of five accounts denominated in United States Dollars to be transferred to Jewish emigrants from Germany to the United States, but that these transfers were prevented because of the outbreak of the Second World War. This document explains that, from time to time, the Bank received dollar notes from one of its customers and was instructed to transfer these funds to different addresses in the United States. According to the document, this customer had spent many years in Japan, and therefore maintained relationships in Japanese diplomatic circles. The document states that a Japanese diplomat by the name of Sakai organized the

⁵ The CRT did not locate an account belonging to Norbert (Nathan) Stein or Toni Stein, née Spier, in the Account History Database prepared pursuant to the ICEP Investigation.

emigration of Jews to the United States by exchanging dollar notes for payments in marks. These dollar notes were sent via the Bank to the addresses of relatives or acquaintances who were already in the United States, and the beneficiary would receive the money from them after he/she successfully entered the country. According to the document, in the summer of 1940, the postal service to the United States was interrupted, and this transfer of currency was stopped. At that time, there were five cases in which the delivery address had not been made known to the Bank. None of the five account owners registered with the Bank after the War, and the Bank was not certain whether the account owners were able to flee Germany. According to the document, shortly after the end of the War, the Japanese diplomat, Mr. Sakai, died. Later, the Bank's customer who had helped organize the money transfers instructed the Bank to deposit the sums into dollar accounts under the names of the beneficiaries. This customer died in 1949. The document states that with the death of both these intermediaries, it became impossible for the Bank to undertake research in Germany. Research undertaken in the United States by a former Bank employee who had emigrated there also proved unsuccessful.

According to a document, dated 16 December 1965, the Registration Office for Assets of Missing Foreigners (the "Registration Office") ("*Meldestelle für Vermögen verschwundener Ausländer*") requested that the Custody Office of the city of Zurich ("*Vormundschaftsbehörde der Stadt Zürich*") entrust the assets to a custodian, as prescribed by the Federal Decree, and that such a custodian was appointed in 1966. The records from the Swiss Federal Archive do not refer to the ultimate disposition of the assets. There is no evidence in the records of the Swiss Federal Archive that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The name of Claimant [REDACTED 1]'s uncle and the name of Claimant [REDACTED 2]'s uncle both match the published name of the Account Owner. The Claimants both identified the Account Owner's country of residence, which matches information about the Account Owner contained in the records from the Swiss Federal Archive.

In support of her claim, Claimant [REDACTED 1] submitted documents, including a copy of her grandparents' will, providing independent verification that the person who is claimed to be the Account Owner had the same name contained in the records from the Swiss Federal Archive as the name of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Julius Stein, and indicates that his

father was [REDACTED] and that his mother was [REDACTED], and that he lived in Gescher, Germany, which matches the information about the Account Owner provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

In support of her claim, Claimant [REDACTED 2] submitted documents, including a copy of an application to the German Compensation Authority, providing independent verification that the person who is claimed to be the Account Owner had the same name contained in the records from the Swiss Federal Archive as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the records from the Swiss Federal Archive; that the information provided by each claimant supports and in no way contradicts any information available in the records from the Swiss Federal Archives; that there is no additional information in the records from the Swiss Federal Archives which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1]

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he resided in Nazi Germany, and that his brother [REDACTED] perished on 3 August 1942 in Auschwitz. As noted above, a person named Julius Stein was included in the CRT's database of victims.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he resided in Nazi Germany, and that his brother [REDACTED] was deported on 21 January 1942 to Riga, where he was shot on 27 July 1944.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was her uncle. These documents include a copy of her grandparents' last will and testament, which indicates that they had two sons named Julius and [REDACTED], and her own birth certificate, which indicates that her father was [REDACTED]. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Finally, the

CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her uncle. These documents include: copies of her parents' certificates of inheritance, indicating that [REDACTED] had a daughter named [REDACTED 2], née [REDACTED], and a signed statement from Ludwig Levy, indicating that [REDACTED] had a brother named Julius Stein. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the account was registered in the 1962 Survey; that the Account Owner and his 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 inquiries by account owners because of the banks' concern 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 Owner or his 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her uncle, and Claimant [REDACTED 2] has also plausibly demonstrated that the Account Owner was her uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible 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 account of unknown type. The records from the Swiss Federal Archives indicate that the value of the account as of 1 September 1963 was US \$317.00, which was equivalent to 1,369.44 Swiss Francs (“SF”).⁶ In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 1,654.44. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half of the Award amount.

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
19 July 2007

⁶ The CRT uses official exchange rates when making currency conversions.