

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Edana Marash-Borska

in re Accounts of Karel Stein

Claim Number: 785373/MBC¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Edana Marash-Borska, formerly Gertruda Edith Stein, (the “Claimant”) to the published accounts of Karel Stein (the “Account Owner”) at the St. Moritz branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her father, Karel Sylvin, formerly Stein, who was born in approximately 1900, and was married to the Claimant’s mother, whom he divorced in approximately 1933. The Claimant indicated that her father resided in Prague, Czechoslovakia (now Czech Republic) at Komenskeho 7 in the Smichov district. The Claimant stated that her father, who was Jewish, was the manager of the Prague branch of the *Escompt Bank*, a foreign bank. The Claimant stated that following his divorce, her father married a woman from a wealthy Czech family, who demanded that he convert from Judaism to Christianity, cease all contact with the Claimant and her mother and change his last name to Sylvin. The Claimant stated that her mother remarried, and her stepfather, who was Slovakian, arranged for her to take his name in order to hide her Jewish heritage, which helped her survive the Second World War.

The Claimant stated that after the War she learned that, upon the Nazi occupation of Czechoslovakia, her father’s second wife divorced him because he was Jewish. The Claimant

¹ The Claimant did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0602 088, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 785373.

explained that the family of her father's second wife gave him one million Czech Crowns to flee to Switzerland, but that he did not manage to escape. The Claimant stated that she learned that her father, his mother and his sisters perished in Auschwitz sometime between 1941 and 1942. The Claimant explained that she also learned that her father and his second wife had had one son together, and that his name was Marcel Kreidl. The Claimant explained that she met her half brother during a visit to Slovakia after the fall of Communism, and that he had not known that his father was Jewish or that he had been killed during the Holocaust.

The Claimant indicated that she was born on 21 September 1925 in Prague.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Karel Stein, who resided in Prague, Czechoslovakia. The Bank's record indicates that the Account Owner held one demand deposit account, which was opened on 23 June 1934, and a custody account, numbered L 868, which was opened on 25 March 1937.

The Bank's record indicates that both accounts were closed by 1948, but the exact date of closure is not known. The Bank's record does not indicate the value of these accounts. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and country of residence match the published name and country of residence of the Account Owner. The Claimant also identified the unpublished city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Karel Sylvin, and indicates that his date of birth was 15 July 1900, that he was Czech, and that he perished in Auschwitz, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Karel Stein appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Karel Stein, prior to the publication of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative,

but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a city or country of residence than city and country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, and that he, his mother and his sisters were all deported to Auschwitz, where they perished. As noted above, a person named Karel Sylvin was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's father.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record; that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her IQ.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in Auschwitz; that there is no record of the payment of the Account Owner's accounts to him or his heirs; that the Account Owner's heirs would not have been able to obtain information about his 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 because of the banks' concern regarding double liability; and given the application of Presumptions (h), (i) 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 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 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 her father, and that relationship justifies 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 accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. 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 investigation carried out pursuant to the instructions of ICEP (the “ICEP Investigation”) in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”) and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the two accounts at issue is SF 15,140.00. 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 a total award amount of SF 189,250.00.

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 her claim 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
10 August 2005