

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant Alexander Morris Stein¹
also acting on behalf of Paul Gustav Stein

and to Claimant Peter Joseph Stein

in re Account of Richard Stein

Claim Numbers: 207486/MBC; 300766/MBC; 788250/MBC

Original Award Amount: 25,680.00 Swiss Francs

Award Amendment Amount: 13,375.00 Swiss Francs

This Certified Award Amendment is based upon the claim of Alexander Morris Stein (“Claimant A. Stein”) to the account of Richard Stein, and upon the claims of Dr. Peter Joseph Stein (“Claimant P. Stein”) (together the “Claimants”) to the accounts of Victor Joseph Stein.² This Award Amendment is to the published account of Richard Stein (the “Account Owner”), at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published. Where claimants have not requested confidentiality, as in this case, only the name of the bank has been redacted.

Procedural History

On 24 October 2002, the Court approved an Award to Claimant A. Stein for the Account Owner’s account (the “October 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant P. Stein. The CRT notes that although Claimant P. Stein had filed a timely claim to the awarded account, his claim was not available for consideration in the October 2002 Award. Subsequent review of Claimant P. Stein’s claim indicates that he is entitled to share in the original award amount, as detailed below.

¹ On 24 October 2002, the Court approved an award to Claimant Alexander Morris Stein (“Claimant A. Stein”) and the party he represents for the account of Richard Stein (the “October 2002 Award”), which is the subject of this Award Amendment.

² The CRT did not locate an account belonging to Victor Joseph 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”).

The October 2002 Award

In the October 2002 Award, the CRT determined that the Account Owner owned one demand deposit account. The CRT further determined that Claimant A. Stein plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his demand deposit account. The CRT noted that the Bank's record did not indicate the value of the account, and therefore presumed that its value was 2,140.00 Swiss Francs ("SF"), and that the October 2002 Award amount was SF 25,680.00. Finally, the CRT determined that Claimant A. Stein and the party he represents were each entitled to one-half of the award amount.

Information Provided by Claimant P. Stein

Claimant P. Stein submitted a Claim Form and an Initial Questionnaire ("IQ") identifying the Account Owner as his paternal uncle, Richard Stein. In a letter to the CRT dated 15 December 2007, Claimant P. Stein stated that his uncle, who was Jewish, was born in 1883 and was married to Elsa Stein. Claimant P. Stein explained that Richard Stein worked in the banking industry, and that he resided in Prague, Czechoslovakia (today the Czech Republic) from 1933 to 1941. Claimant P. Stein indicated that in 1941, his uncle was arrested by the Nazis and deported to Theresienstadt concentration camp, and later to Auschwitz, where he perished in 1942. Claimant P. Stein stated that Richard and Elsa Stein had no children.

Claimant P. Stein submitted documents in support of his claim, including: (1) his father's birth certificate, which indicates that Victor Stein was born in Cesky Brod, Czechoslovakia on 30 September 1903; (2) a list of products manufactured by his father's company, *Standard*, which indicates that the company was located in Prague; and (3) his father's résumé, which indicates that Victor Stein had worked in Prague for nineteen years.

Claimant P. Stein indicated that he was born on 22 September 1936 in Prague.

Information Available in the Bank's Record

As detailed in the October 2002 Award, the Bank's record indicates that the Account Owner was Richard Stein, who resided in Prague, Czechoslovakia. The record indicates that the Account Owner held one demand deposit account, which was closed on 30 August 1940. The Bank's record does not indicate the value of the account.

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 of the Claimants in one proceeding.

Claimant P. Stein's Identification of the Account Owner

Claimant P. Stein's uncle's name and country of residence match the published name and country of residence of the Account Owner. Claimant P. Stein further identified the Account Owner's city of residence, which matches unpublished information in the Bank's record.

The CRT notes that Claimant P. Stein filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Richard Stein, prior to the publication in February 2001 of the 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"). This indicates that Claimant P. Stein has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant P. Stein had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant P. Stein.

The CRT notes that Claimant A. Stein's relative and Claimant P. Stein's relative are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owner, the CRT finds that Claimant A. Stein and Claimant P. Stein have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant P. Stein has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant P. Stein stated that the Account Owner was Jewish, that he was deported from Prague to Theresienstadt in 1941, and that he perished in Auschwitz in 1942

Claimant P. Stein's Relationship to the Account Owner

Claimant P. Stein has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was his father's brother.

The CRT further notes that Claimant P. Stein identified unpublished information about the Account Owner as contained in the Bank's record; and that Claimant P. Stein filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant P. Stein, prior to the publication in February 2001 of the ICEP List. The CRT notes that Claimant P. Stein submitted copies of his father's birth certificate, which provides independent verification that Claimant P. Stein's relatives bore the same family name as the Account Owner, and that they resided in Prague. 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 P. Stein as a family member, and all of this information supports the plausibility that Claimant P. Stein is related to the Account Owner, as he has asserted in his Claim Form and IQ.

The Issue of Who Received the Proceeds

As detailed in the October 2002 Award, the CRT has concluded that it is plausible that the account's proceeds were not paid to the Account Owner or his heirs.

Amount of the October 2002 Award

As detailed in the October 2002 Award, the Account Owner held one demand deposit 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 upon the investigation conducted by ICEP, in 1945 the average value of a demand deposit account was SF 2,140.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the October 2002 Award, the adjustment factor was 12, and the resulting award amount was SF 25,680.00.

Since the October 2002 Award, the adjustment factor has been raised to 12.5.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant P. Stein. First, Claimant P. Stein's claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant P. Stein has plausibly demonstrated that he is the Account Owner's nephew, and that relationship justifies an Award. Third, the CRT determined in the October 2002 Award that it is plausible that neither the Account Owner nor his heirs received the proceeds of the account.

New 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 may provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would otherwise be entitled under these Rules. In this case, Claimant A. Stein and Claimant P. Stein have each established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant A. Stein and the party he represents are each entitled to one-quarter of the total award amount, and Claimant P. Stein is entitled to one-half of the total award amount.

The CRT notes that in the October 2002 Award, Claimant A. Stein was awarded the entire award amount, and that he is now determined to be entitled to only one-half of the award amount. Recognizing that more than seven years have passed since the October 2002 Award, and that there is no indication that Claimant A. Stein was aware that another equally entitled person had filed a claim, the CRT does not seek outright repayment of the overpayment from Claimant A. Stein. However, the amount of overpayment shall be deducted from any award adjustment that may be forthcoming to Claimant A. Stein.

Amount and Division of the Award Amendment

As detailed above and in the October 2002 Award, the 1945 value of the account at issue was determined to be SF 2,140.00. Claimant P. Stein is entitled to one-half of this amount, or SF 1,070.00. 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 Amendment amount of SF 13,375.00. As detailed above, Claimant P. Stein is entitled to the full amount of the Award Amendment.

Certification of the Award Amendment

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

Claims Resolution Tribunal
16 April 2010