

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants Magda Nemlich and Dr. Lisa Amelia Steiner
(who is also acting on behalf of George Leopold Steiner)

in re Accounts of Hermann Steiner and Paul Eichenwald

Claim Numbers: 215103/PY; 219486/PY

Award Amount: 64,875.00 Swiss Francs

This Certified Award is based upon the claim of Magda Nemlich, née Eichenwald, (“Claimant Nemlich”) to the account of Dr. Paul Eichenwald and the claim of Dr. Lisa Amelia Steiner (“Claimant Steiner”) (together the “Claimants”) to the accounts of Hermann Steiner. This Award is to the accounts of Hermann Steiner (“Account Owner Steiner”) and Paul Eichenwald (“Account Owner Eichenwald”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimants

Claimant Nemlich submitted a Claim Form identifying Account Owner Eichenwald as her father, Dr. Paul Eichenwald, who was born on 4 May 1885 in Orla, Poland, and was married to Rosa Eichenwald, née Hornik, on 19 September 1926 in Vienna, Austria. Claimant Nemlich stated that her father, who was Jewish and a doctor by profession, lived at Alserstrasse 23, Vienna VIII until his death in 1936. Claimant Nemlich stated that Paul Eichenwald’s wife, Rosa Eichenwald, who was also Jewish, fled to the United States in 1941. In support of her claim, Claimant Nemlich submitted her birth certificate and her parents’ marriage certificate. Claimant Nemlich indicated that she was born on 2 July 1930 in Vienna.

Claimant Steiner submitted a Claim Form identifying Account Owner Steiner as her father, Hermann Steiner, who was born on 25 December 1889 in Kuty, Slovakia, and was married to Stella Steiner, née Hornik, on 2 March 1926 in Vienna. Claimant Steiner indicated that her parents divorced in 1940 or 1941. Claimant Steiner stated that her father, who was Jewish and who held Czechoslovakian citizenship, originally lived and worked in Vienna for *Österreichische Tabakregie*. Claimant Steiner indicated that her father was then transferred to Sofia, Bulgaria, in 1932, and returned to Vienna in 1933. Claimant Steiner stated that in 1935 or 1936, her father lost his job and could no longer keep his flat in Vienna. Claimant Steiner stated

that her brother, George Leopold Steiner, was then sent to live with their mother's sister, Rosa Eichenwald, who was the wife of Dr. Paul Eichenwald. According to Claimant Steiner, Hermann Steiner and his family fled to Paris, France in May 1938 after the German annexation of Austria (the "*Anschluss*") and remained there until fleeing for the United States in March 1940. In support of her claim, Claimant Steiner submitted her parents' marriage certificate, which indicates that they were living in Vienna, her birth certificate and the birth certificate of her brother, George Leopold Steiner, whom she represents. Claimant Steiner indicated that she was born on 12 May 1933 in Vienna and that her brother was born on 24 January 1924, also in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, dated 19 December 1931 in Zurich, and a printout from the Bank's database on a power of attorney form dated in 1931. According to these records, Account Owner Steiner was *Director* Hermann Steiner, who lived at Ul. Graf Ignatieff 70 in Sofia, Bulgaria, while Account Owner Eichenwald was Dr. Paul Eichenwald, who resided at Alserstrasse 23 in Vienna VIII, Austria. The Bank's records indicate that Account Owner Eichenwald held an account of unknown type, and that the Power of Attorney Holders were Account Owner Steiner and Franziska Hornik ("Power of Attorney Holder Hornik"). The records also indicate that Account Owner Steiner held a safe deposit box numbered 339, and that the Power of Attorney Holders were Account Owner Eichenwald, and *Frau* (Mrs.) Dr. Rosel Eichenwald ("Power of Attorney Holder Rosel Eichenwald").

The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value 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 indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts 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 Owners

Claimant Nemlich has identified Account Owner Eichenwald and the Power of Attorney Holder Rosel Eichenwald. Her father's name matches the published name of Account Owner Eichenwald, and her mother's name corresponds to the unpublished name of Power of Attorney Holder Rosel Eichenwald. Her parents' address in Vienna, Alserstrasse 23, Vienna VIII, exactly matches unpublished information contained in the Bank's records about Account Owner Steiner.

Claimant Steiner has plausibly identified Account Owner Steiner. Her father's name matches the published name of Account Owner Steiner. Her uncle's name, Paul Eichenwald, matches the published name of Account Owner Eichenwald, and her aunt's name, Rosa Eichenwald, corresponds to the unpublished name of Power of Attorney Holder Rosel Eichenwald. Claimant Steiner stated that her father lived in Sofia, Bulgaria, which matches unpublished information about Account Owner Steiner contained in the Bank's records. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

Claimant Steiner has made a plausible showing that Account Owner Steiner was a Victim of Nazi Persecution. Claimant Steiner stated that Account Owner Steiner was Jewish, and fled to Paris, France in May 1938 before leaving for the United States in March 1940. Claimant Nemlich stated that Account Owner Eichenwald died in 1936, but that his wife, Power of Attorney Holder Rosel Eichenwald, who was also Jewish, was forced to flee to the United States in 1941.

The Claimants' Relationship to the Account Owners

Claimant Steiner has plausibly demonstrated that she is related to Account Owner Steiner by submitting her birth certificate and a family tree, while Claimant Nemlich has plausibly demonstrated that she is related to Account Owner Eichenwald, also by submitting her birth certificate.

The Issue of Who Received the Proceeds

Given the existence of Nazi confiscatory legislation in Austria at that time,¹ that Account Owner Steiner fled to France in 1938 and to the United States in 1940, that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their 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 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

¹ As described in the expanded version of Appendix A (see II. A. 2), which appears on the CRT II website -- www.crt-ii.org.

not paid to the Account Owners, the Power of Attorney Holders 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 Steiner has plausibly demonstrated that Account Owner Steiner was her father and that Account Owner Eichenwald was her uncle, while Claimant Nemlich has plausibly demonstrated that Account Owner Eichenwald was her father and Account Owner Steiner was her uncle, 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, Account Owner Steiner held one safe deposit box account while Account Owner Eichenwald held one account of unknown type. 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 3,950.00 Swiss Francs while the average value of a safe deposit box account was 1,240.00 Swiss Francs, producing a total value of 5,190.00 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 64,875.00 Swiss Francs.

Division of the Award

In this case, Claimant Nemlich is the direct descendant of Account Owner Eichenwald and Claimant Steiner is the direct descendant of Account Owner Steiner. According to Article 23(c) of the Rules, if the spouse of an account owner has not submitted a claim, the award shall be in favor of descendants of the account owner, in equal shares by representation. Accordingly, Claimant Nemlich is entitled to the amount of the account of unknown type owned by Account Owner Eichenwald, or 49,375.00 Swiss Francs, and Claimant Steiner is entitled to the amount of the safe deposit box held by Account Owner Steiner, or 15,500.00 Swiss Francs.

Claimant Steiner is representing her brother, who is also a direct descendant of Account Owner Steiner. Accordingly, he is entitled to one-half of any payment made to Claimant Steiner, or 7,750.00 Swiss Francs.

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
July 15, 2003