

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED] and [REDACTED]

in re Accounts of Arthur Stern

Claim Number: 216627/MG¹

Award Amount: 8,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Arthur Stern (the “Account Owner”) at the Zurich branch of the [REDACTED 1] (“Bank I”) and at the [REDACTED 2] (“Bank II”).

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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his paternal great-uncle, Arthur Stern, who was born on 30 September 1885 in Frankfurt, Germany, and was married to [REDACTED]. According to the Claimant, the couple had no children. The Claimant indicated that Arthur Stern’s sister, [REDACTED], née [REDACTED] (the Claimant’s grandmother), was married to [REDACTED], and that they had two children: [REDACTED], the Claimant’s father, who died on 30 March 1990; and [REDACTED], née [REDACTED], the Claimant’s aunt, who died on 26 November 1991. The Claimant further identified the Power of Attorney Holder as his great-uncle’s close friend and advisor, Leo Heilbronner. The Claimant stated that his great-uncle, who was Jewish, was a businessman in the metal industry. The Claimant indicated that his great-uncle resided in Berlin, Germany, until 31 December 1938, when he and his wife, [REDACTED], fled Nazi Germany for the United States, and that one of his addresses was 30 Winterfeldstrasse in Berlin-Zehlendorf. According to the Claimant, in the summer of 1938, prior to leaving Germany, his great-uncle was arrested and imprisoned in a concentration camp, where both of his legs were broken. The Claimant stated that his great-uncle died on 3 March 1949, and that his great-aunt died in 1943, both in San Francisco,

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 216627 and 219229. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 216627.

California. In support of his claim, the Claimant submitted various documents including his great-uncle's will, dated 13 July 1945, and a notarized certificate of inheritance, both of which indicate that Arthur Stern left his entire estate to his nephew, [REDACTED] (the Claimant's father), and his niece, [REDACTED], née [REDACTED]. The Claimant also submitted his own birth certificate, indicating his father was [REDACTED]; and his father's and aunt's birth certificates, indicating their mother was [REDACTED], née [REDACTED] (Arthur Stern's sister).

The Claimant is representing his two cousins, the daughters of [REDACTED]: [REDACTED], née [REDACTED], and [REDACTED]. The Claimant stated that he was born on 29 October 1959 in London, the United Kingdom.

Information Available in the Bank's Records

The Bank's records of Bank I consist of a signed power of attorney form, dated 25 January 1927; a customer account card; a list documenting the transfer of securities from custody accounts to German banks during the period 1 November 1936 until 31 January 1937; correspondence with the Swiss Central Clearing Office; documents relating to the 1945 Swiss Freeze of German Assets (the "Freeze"); internal Bank correspondence and printouts from the Bank's database. According to these records, the Account Owner was *Direktor* Arthur Stern who had addresses at Behrenstrasse 28 in Berlin W8, and at Winterfeldstrasse 30 in Berlin-Zehlendorf, both in Germany. The Account Owner was associated with the shareholder corporation *H. Levy-Stern Aktiengesellschaft*, located at Prinz Albrechtstrasse 8 in Berlin S. W. II. The Power of Attorney Holder was Leo Heilbronner, an agent (*Prokurist*) at the corporation *H. Levy-Stern Aktiengesellschaft*. The records of Bank I indicate that the Account Owner held a custody account numbered 23975, which was later renumbered 95. According to these records, the account existed at least as early as 25 January 1927, when the Power of Attorney was granted. The Power of Attorney was annulled on 17 March 1934. The securities transfer list indicates that the securities in the account were transferred on 18 December 1936 to the *Commerz & Privatbank AG, Berlin*, pursuant to German foreign currency restriction measures that required German owners of foreign securities to deposit their securities at a German bank or into a German bank account at a foreign institution. The records indicate that the securities were worth 700.00 Swiss Francs on the date of the transfer. According to these records, there was no contact with the Account Owner from 15 December 1938 onward. The account was frozen on 17 February 1945 pursuant to the Freeze with an account balance of 5.00 Swiss Francs, and was unfrozen on 7 July 1953. The account was closed on 27 May 1957. The Bank's records do not indicate who closed the account.

The Bank's records of Bank II consist of a sheet of inventory of accounts and printouts from the database of Bank II. According to these records, the Account Owner was Arthur Stern, who resided in Berlin, Germany. The Bank's records indicate that the Account Owner held an account of unknown type, numbered 19965. The account was closed on 7 July 1953, but there is no indication in the records showing who authorized the closure of the account, and the amount in the account on the date of its closure is unknown.

There is no evidence in the records of Bank I or Bank II that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

With regard to the custody account at Bank I, the Claimant has plausibly identified the Account Owner at Bank I. His great-uncle's name matches the published name of the Account Owner at Bank I. The Claimant identified one of his great-uncle's addresses as Winterfeldstrasse 30 in Berlin-Zehlendorf, which exactly matches unpublished information about the Account Owner contained in the records of Bank I. Further, the Claimant stated that his great-uncle was a businessman, which is consistent with unpublished information contained in the records of Bank I indicating that the Account Owner was a director of a business in Germany and used the title *Direktor*. The Claimant also indicated that the Power of Attorney Holder was a close friend and advisor of his great-uncle. In addition, the CRT notes that in support of his claim, the Claimant submitted documents, including his great-uncle's will, dated 13 July 1945, and a notarized certificate of inheritance, both of which indicate that Arthur Stern left his entire estate to his nephew, [REDACTED] (the Claimant's father), and his niece, [REDACTED], née [REDACTED]. The Claimant also submitted his own birth certificate, indicating his father was [REDACTED]; and his father's and aunt's birth certificates, indicating their mother was [REDACTED], née [REDACTED] (Arthur Stern's sister). These documents confirm that the Claimant's great-uncle was Arthur Stern. Finally, the CRT notes that there are no other claims to this account.

With regard to the account of unknown type at Bank II, the CRT notes that the records of Bank II do not contain any specific information about the Account Owner other than his published name and city of residence. Because of the limited information at Bank II, the CRT concludes that it cannot determine whether the Account Owner at Bank I is the same person as the Account Owner at Bank II. Therefore, the CRT has decided not to reach a decision at this time regarding the account of unknown type at Bank II, pending further consideration as to whether or not the Claimant has identified the Account Owner at Bank II.

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, that in the summer of 1938 he was arrested and imprisoned in a concentration camp where both his legs were broken, and that on 31 December 1938 he and his wife fled Nazi Germany for the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting his great-uncle's will, dated 13 July 1945, a certificate of inheritance indicating that his father,

[REDACTED], and his aunt, [REDACTED], née [REDACTED], were the legal heirs to Arthur Stern's estate, and copies of his parents' British passports.

The Issue of Who Received the Proceeds

With regard to the custody account at Bank I, given that there is no indication in the records regarding who authorized the transfer of securities to the German bank, *Commerz & Privatbank AG, Berlin*, that the transfer of securities occurred while the Account Owner remained in Nazi-Germany, and thus he would not have been able to repatriate his account to Germany without its confiscation,² that the records at Bank I indicate the last contact with the Account Owner was while he was still living in Nazi-Germany; that the accounts remained in existence after the war and there is no record of the payment of the accounts to the Account Owner after the war, that the Account Owner and his 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 inquiries by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (a), (b), (h) 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, the Power of Attorney Holder 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.

With regard to the account of unknown type at Bank II, the CRT has decided not to reach a decision at this time, pending further consideration as to whether or not the Claimant has identified the Account Owner at Bank II.

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 his great-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account at Bank I. The Bank's records indicate that the value of the securities in the custody account on 18 December 1936, the date of their transfer to the [REDACTED], was 700.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance

² In 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks.

with Article 31(1) of the Rules. Consequently, the total award amount in this case is 8,750.00 Swiss Francs.

Division of the Award

The Claimant has submitted Arthur Stern's will and certificate of inheritance, which indicate that his estate is to be split equally between his nephew, [REDACTED] (the Claimant's father), and his niece, [REDACTED], née [REDACTED]. The Claimant is representing his two cousins ([REDACTED]'s children) in these proceedings.

Pursuant to Article 23(2)(b) of the Rules, if 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 those documents who have submitted a claim. In addition, pursuant to Article 23(2)(c) of the Rules, if a claimant 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) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. Accordingly, the Claimant is entitled to one-half (1/2) of the total award, and his cousins are each entitled to one-fourth (1/4) of the total award.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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
September 15, 2003