

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], née [REDACTED],
[REDACTED 3], née [REDACTED], and [REDACTED 4]
represented by Frances Hinch

in re Account of Max Stern

Claim Number: 400868/RT

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Max Stern (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 her paternal grandfather Max Leopold Stern, who was born on 11 January 1883 in Nimburg, Bohemia (now Nymburk, Czech Republic) and was married to [REDACTED], née [REDACTED]. The Claimant further stated that her grandfather, who was Jewish, was a timber merchant in Vienna, and that he had one child, [REDACTED] (the Claimant’s father), who was born on 20 January 1910. According to the Claimant, her grandfather resided in Vienna until 1939, when he fled Austria for Brig, Switzerland. The Claimant further indicated that in 1945 or 1946 her grandfather emigrated to the United Kingdom, where he lived until his death on 11 February 1968.

In support of her claim, the Claimant submitted copies of documents, including: (1) her father’s birth certificate, indicating that [REDACTED] was born on 20 January 1910 in Vienna and his mother was [REDACTED], née [REDACTED]; (2) his father’s passport, issued to [REDACTED] on 30 May 1939 by the German Consulate in Brünn, CSR, and bearing the J stamp affixed to all passports of persons considered Jewish under the Nuremberg laws; (3) a letter from [REDACTED] to the Undersecretary of State of the United Kingdom dated 19 September 1945, requesting admittance to the United Kingdom for his parents Max and

[REDACTED], and also indicating that they had fled Austria for Switzerland in 1939 to escape Nazi persecution; (4) her grandfather's certificate of naturalization as a British citizen, indicating that Max Leopold Stern was born on 11 January 1883 in Nimburg, Bohemia, was of Austrian nationality and was married to [REDACTED]; (5) her grandmother's death certificate, indicating that [REDACTED] died on 20 August 1967 in Bradford, the United Kingdom; (6) her grandfather's death certificate, indicating that Max Stern died on 11 February 1968 in Bradford; (7) her father's certificate of naturalization as a British citizen, indicating that [REDACTED] was the son of Max Leopold and [REDACTED] and that he was married to [REDACTED]; (8) her father's death certificate, indicating that [REDACTED] died on 5 March 1991 in Shipley, the United Kingdom; and (8) her own birth certificate, indicating [REDACTED 1]'s parents were [REDACTED] and [REDACTED].

The Claimant indicated that she was born on 4 August 1945 in Bradford. The Claimant is representing her brother [REDACTED 4], who was born in Bradford, and her sisters [REDACTED 3], née [REDACTED], who was born on 29 September 1947 in Bradford, and [REDACTED 2], née [REDACTED], who was born on 20 May 1951 in Bradford.

Information Available in the Bank's Record

The Bank's record consists of a correspondence form, signed by the Account Owner. According to this record, the Account Owner was Max Stern. The Bank's record further indicates that the Account Owner requested that the Bank send all correspondence to the care of Dr. Max Benisch, who lived in Prague XVIII, Stresovice, Na Hubalce 707, Czechoslovakia.

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") indicated that the Account Owner held one custody account. These auditors did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. The auditors indicated that there was no evidence of activity on this account after 1945.

The Bank's record does not indicate the value of this account. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's name matches the published name of the Account Owner. Furthermore, the Claimant indicated that her grandfather was born in a city located in the same country and less than thirty miles away from the city listed in the Bank's record as the address to which correspondence regarding the account was to be sent, which matches unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the

Claimant did not identify the person to whom the correspondence was to be sent; however, the CRT also notes that the Claimant was born after the Second World War, and determines that it is plausible that she would not have known the names of her grandfather's associates.

In support of her claim, the Claimant submitted documents, including her father's certificate of naturalization and a letter from [REDACTED] to the Undersecretary of State of the United Kingdom, providing independent verification that the person who is claimed to be the Account Owner had the same name as the Account Owner and was born in the country listed in the Bank's record as the Account Owner's contact address. The Claimant also submitted a copy of her father's passport, indicating that the son of the person who is claimed to be the Account Owner resided in that country in 1939.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided birth dates that are inconsistent with the age of the Account Owner, or because those Claimants demonstrated no connection to the country the Account Owner provided as part of his contact address. 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, that he resided in Nazi-controlled Austria, and that he fled Austria for Switzerland in 1939. The Claimant submitted a letter indicating that the Account Owner was Jewish and that he fled Austria in 1939 due to Nazi persecution and requesting that he be admitted to the United Kingdom, as well as a copy of her father's passport, indicating that the Account Owner's son was Jewish.

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 and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include the birth certificate of the Claimant's father [REDACTED], indicating that his father was Max Stern, and her own birth certificate, indicating that [REDACTED] was her father. There is no information to indicate that the Account Owner has other surviving heirs other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Austria after the incorporation of Austria into the Reich in March 1938 (the "Anschluss"); 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 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) 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 grandfather, 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 account.

Amount of the Award

In this case, the Account Owner held 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner’s spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim in equal shares by representation. In this case, the Claimant is representing her siblings [REDACTED 2], née [REDACTED], [REDACTED 3], née [REDACTED], and [REDACTED 4]. Accordingly, the Claimant and her siblings, as the grandchildren of the Account Owner, are each entitled to one quarter of the total award amount.

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
30 May 2007