

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Robert Stern

Claim Numbers: 201046/MC, 601467/MC¹

Award Amount: 96,612.50 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of [REDACTED], Robert Stern, and [REDACTED].² This Award is to the unpublished accounts of Robert Stern (the “Account Owner”) at the Zurich and Schaffhausen branches of the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database.

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 and a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as his paternal uncle, Robert Stern, who was born on 23 May 1891 in Brno, Czechoslovakia, as one of four sons of [REDACTED] and [REDACTED] née [REDACTED]. The Claimant identified two of Robert Stern's siblings as [REDACTED], the Claimant's father, and [REDACTED], both born approximately in 1888 in Brno. The Claimant stated that Robert Stern, who was Jewish, resided in Brno during the late 1930s, and that he was never married. The Claimant further stated that his uncle was a dentist, and that he resided in Brno at Koblizna ulice until 1938, and at Na Nadrazi after that date. The Claimant stated that his uncle was deported to Izbica, Poland, where he perished on 11 March 1942. The Claimant submitted his own birth certificate, identifying his father as [REDACTED], born on 25 November 1888 in Brno, and his grandparents as [REDACTED] and [REDACTED] née [REDACTED]. The Claimant indicated that he was born on 4 September 1920 in Brno.

The Claimant previously submitted an HCPO claim form in 1999, asserting his entitlement to Swiss bank accounts owned by Robert Stern and [REDACTED]. The Claimant explained

¹ The Claimant submitted a claim, numbered B-01712, on 8 February 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601467.

² The CRT will treat the claims to the accounts of [REDACTED] and [REDACTED] in separate decisions.

that he based his HCPO claim regarding Robert Stern on the inclusion of his uncle's name on a list of accounts he saw published as a result of the 1962 Swiss Federal Survey (the "1962 Survey"). The 1962 Survey was conducted pursuant to a Swiss Federal Decree of 1962 concerning assets held in Switzerland by missing foreigners or stateless persons who either were persecuted or were presumed to have been persecuted on racial, political or religious grounds. The Claimant's HCPO claim file includes a page, printed on 18 January 1999, from a website located at <http://www.switzerland.taskforce.ch/CF/names.cf>, which lists certain asset holders from the 1962 Swiss Federal Survey List and includes Robert Stern from Brno.³ The Claimant's HCPO claim file also includes a letter to the HCPO from the [REDACTED] Legal & Compliance department responding to the HCPO's inquiry regarding the fate of Robert Stern's accounts, dated 22 December 1999, which states that, "to date, our searches have not yielded any information on a customer relationship of the former [REDACTED] or the former [REDACTED] with Mr. Stern's uncle, Mr. Robert Stern," despite the fact that Robert Stern from Brno was included in the above mentioned list.

The Claimant also previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to Swiss bank accounts owned by his father, [REDACTED].⁴

Information Available in the Bank's Records

The Bank's records consist of printouts from a database listing accounts held in Switzerland by nationals of Germany and territories incorporated into the Third Reich that were frozen in 1945 (the "1945 Freeze"). According to these records, the Account Owner was *Herr* (Mr.) Robert Stern, who resided at Krapfengs. 31 in Brno, Czechoslovakia. These records indicate that the Account Owner held two accounts, the types of which are not indicated. The balance of one account was 2,292.00 Swiss Francs as of 17 February 1945, and the balance of the second account was 5,407.00 Swiss Francs on that date. The Bank's records do not show when the accounts were closed or to whom they were paid. There is no evidence in the records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

These accounts were not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.8 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records

³ The CRT notes that certain accounts, including 584 account owner names, included on the 1962 Swiss Federal Survey List were re-published in 1999. The exact extent of publication, however, is unclear. Of these 584 names, 175 names originated from reports made by the Bank pursuant to the 1962 Survey. There is no evidence that the accounts of Robert Stern listed on the 1962 Swiss Federal Survey were ever paid to him or his heirs. The accounts of Robert Stern were included on a list provided by the auditors who carried out the investigation of the Bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") listing accounts frozen in the freeze of assets held in Switzerland by nationals of Germany and territories incorporated into the Third Reich (the "1945 Freeze"). The CRT concludes that it is likely that the accounts of Robert Stern frozen in the 1945 Freeze and assets of Robert Stern reported in the 1962 Survey are indeed the same assets held by the same account owner.

⁴ The CRT will treat the claim to the accounts of [REDACTED] in a separate decision.

remain. These 4.1 accounts, in databases located at the 59 ICEP audited Swiss banks,⁵ are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

In order to expedite the results of the ICEP investigation, certain necessarily arbitrary presumptions were used to exclude the 1.9 million savings and Swiss address accounts from the probable or possible accounts category. The 2.2 million were matched against the ICEP's victim database, but the reason for their exclusion in at least a significant number of cases no longer appears to be valid in the light of the experience of the CRT in reviewing cases as part of the Claims Resolution Process. For example, many accounts were excluded from the Account History Database on the grounds of activity after 1945, but in some cases there now appears to be no evidence that the account owners had full dominion over the accounts and were not just inquiring whether the bank, after many years, still maintained the record of their deposits, a fact often denied by the banks in these circumstances as has been demonstrated in many Awards made by the CRT.

These two sources may contain significant numbers of accounts of Nazi victims, especially when it is considered that of the 33,000 claims that were submitted to the CRT, 21,000 did not match to the 36,000 accounts in the Account History Database of probable and possible Nazi victim accounts. Because of the significant potential of this body of accounts ICEP specifically recommended in its final Report in December 1999 that all claims submitted to the CRT should be matched against the applicable databases of accounts. The Rules Governing the Claims Resolution Process (the "Rules") provide the procedures under which the TADs would be available for matching and research, but as a practical matter, until now, they have not been available to the CRT for this purpose.

Starting in the first week of this year, a test of the TAD was initiated at the Bank, with its full cooperation. This award is part of a group of accounts identified during the TAD test.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's uncle's name and city and country of residence match the name and city and country of residence of the Account Owner. The Claimant stated that Robert Stern worked in an office located at Koblizna ulice in Brno, and this address matches precisely the address used by the Account Owner.⁶ In support of his claims, the Claimant submitted documents, including his own birth certificate, indicating that his family resided in Brno, providing independent verification that the Claimant's family resided in the same city of residence as that of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Robert Stern, and indicates that his date of birth was 23 May 1891, 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

⁵ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

⁶ The CRT notes that between 1918 and 1939, Krapfengasse was used as a German language version of the original Czech name, ulice Koblizna.

Vashem Memorial of Israel. The CRT further notes that there are no other claims to these accounts. 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 perished in Izbica, Poland in 1942. As noted above, a person named Robert Stern was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was the Claimant's uncle. These documents include a copy of his own birth certificate, which provides independent verification that the Claimant's relatives bore the family name Stern and that they resided in Brno, Czechoslovakia. 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. The CRT further notes that the Claimant also identified information which matches information contained in the Yad Vashem records. All of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in 1942 and the account continued to exist in 1945; that assets of Robert Stern from Brno were reported in the 1962 Survey; that there is no record of the payment of the Account Owner's accounts to his heirs, nor any record of a date of closure of the accounts; that the Account Owner's heirs would not have been able to obtain and in the present case did not 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 (b), (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 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 claims are 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 paternal uncle, 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 two accounts of unknown type. The Bank's records indicate that the balances of the accounts as of 17 February 1945 were 5,407.00 Swiss Francs and 2,292.00 Swiss Francs. Thus, the total value of the accounts at issue was 7,699.00 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 30.00 Swiss Francs, which reflects standardized bank fees charged to the accounts between 1 January 1945 and 17 February 1945. Consequently, the total adjusted balance of the accounts at issue is 7,729.00 Swiss Francs. The current value of this amount is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 96,612.50 Swiss Francs.

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 claims 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) at banks other than the Bank.

Certification of the Award

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

Claims Resolution Tribunal
8 June 2004