

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Howard Straus
also acting on behalf of Maxene Straus
and Margaret Straus

in re Account of Erwin Straus

Claim Number: 500816/SB

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Howard Straus (the “Claimant”) to the published account of Erwin Straus (the “Account Owner”) at [REDACTED] (the “Bank”).

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his father, Irwin (Erwin) Straus, who was born on 2 February 1920 in Karlsruhe, Germany. The Claimant stated that his father was originally married to Charlotte Gerson, the Claimant's mother, on 16 February 1941, but that they divorced on 16 August 1965, and his father married Maxene Ross on 22 October 1966, in New York, the United States. The Claimant stated that his father, who was Jewish, resided in Karlsruhe with his parents and four siblings, Werner, Ilse, Gerda and Eva until 1938, when the family fled Germany to the United States. The Claimant stated that his father changed the spelling of his first name from Erwin to Irwin after arriving in the United States. The Claimant indicated that his father died on 16 December 1980 in New York. In support of his claim, the Claimant submitted: (1) his birth certificate, which shows that his father is Irwin Yehudah Straus; (2) his father's birth certificate, which shows that his father was born in Karlsruhe; (3) his father's death certificate; (4) his father's marriage certificate to Maxine Ross and, (5) his father's last will and testament, dated 16 March 1979, which states that he bequeathed all his personal effects and other tangible personal property, except cash, to his spouse, Maxene Straus, and stipulated that if his wife were to predecease him, these assets would pass to his children in equal shares. The will establishes a trust aiming to minimize estate tax liability. Thus the trust is to hold all assets over and above the amounts that are allowable under estate tax exclusions making clear that the beneficiaries are to be his widow, his children and his grandchildren.

The Claimant stated that he was born on 23 May 1943 in New York. The Claimant represents his stepmother, Maxene Straus, who was born on 22 October 1926 in Tennessee, the United States and his sister, Margaret DeGo, née Straus, who was born on 17 July 1947 in New York.

Information Available in the Bank's Record

The Bank's record consists of a report of the auditors who carried out the investigation of this Bank to identify Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"). According to this record, the Account Owner was Erwin Straus, who resided in Karlsruhe, Germany. The auditor's report indicates that the Account Owner held a demand deposit account. The auditor's report does not show precisely when the account at issue was closed, but it does indicate that the account was closed prior to 1946. The auditor's report does not show to whom the account was paid, nor does it 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 has plausibly identified the Account Owner. The Claimant's father's name and city and country of residence match the published name and city and country of residence of the Account Owner. In support of his claim, the Claimant submitted documents, including his father's birth and marriage certificates, showing that the Claimant's father was born in Karlsruhe, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

The CRT notes that the name Erwin Straus appears only once on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of victims of Nazi persecution. The CRT notes that there are no other claims to this account.

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 resided in Germany until 1938, when he fled to 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 specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth certificate, which states that his father was

Irwin Straus. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant represents.

The Issue of Who Received the Proceeds

The auditor's report indicates that the account was closed sometime prior to 1946, but does not indicate to whom the account was paid. The CRT notes that according to information provided by the Claimant, the Account Owner was possibly outside Nazi-dominated territory at the time the account was closed. However, given that the auditor's report does not indicate to whom the account was closed, or the date of closure, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his account to ensure their safety, 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, even for the stated purpose of obtaining indemnification from the German authorities, 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 (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 his father, 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 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 on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

Division of the Award

According to Article 23(2)(a) 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 the will, or other inheritance documents, who have submitted a claim. In this case, the Claimant represents his sister, Margaret Deگو, and stepmother, Maxene Straus. The CRT notes that the Account Owner's will indicates that all his personal effects and other tangible personal property, except cash, were bequeathed to his spouse, Maxene Straus, and that a trust fund set up to hold any residue of the estate over and above estate tax free amounts was clearly intended to benefit his widow, his children and his grandchildren. Accordingly, and as set out in the Account Owner's will and trust document, the represented party, Maxene Straus, is entitled to 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 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
9 March 2005