

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 Dego

and to the Estate of Claimant Gerda Mathan¹

in re Account of Eva Straus

Claim Numbers: 500816/BW; 500765/BW²

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Howard Straus (“Claimant Straus”) to the account of Erwin Straus, and the claim of Gerda Mathan, née Straus, (“Claimant Mathan”) (together the “Claimants”) to the account of Gerda Straus.³ This Award is to the published account of Eva Straus (the “Account Owner”) at [REDACTED] (the “Bank”).

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

Information Provided by the Claimants

Claimant Straus

Claimant Straus submitted a Claim Form identifying the Account Owner as his paternal aunt, Eva Linker, née Straus, who was born on 22 December 1922 in Karlsruhe, Germany. Claimant Straus stated his grandparents Frederick Abraham Straus and Edith Straus, née Meyer, had five children, one of whom was Eva Straus. Claimant Straus stated that Eva Straus’s family lived in Karlsruhe, Germany at Beethovenstrasse 4. Claimant Straus indicated that except for one semester that she spent at *Philanthropie*, a Jewish school in Frankfurt, Germany, Eva Straus lived in Karlsruhe until 1938, when she fled Germany. Claimant Straus further explained that

¹ Claimant Straus informed the CRT that Claimant Mathan died in August 2004, and Claimant Mathan’s son, Dan Barki, forwarded a copy of her death certificate and will.

² Claimant Straus submitted an additional claim, which is registered under the Claim Number 401395. The CRT will treat this claim in a separate determination.

³ The CRT notes that the account of Erwin (Irwin) Straus was awarded to Claimant Straus in a separate decision. See *In re Account of Erwin Straus* (approved on 9 March 2005). The CRT also notes that the accounts of Gerda Straus and Frederick Straus were previously awarded to Claimant Straus and Claimant Mathan. See *In re Accounts of Gerda Straus and Frederick Straus* (approved on 9 March 2005).

Eva Straus and three of her siblings lived in a small hotel in Zurich between the months of July and November 1938 while they waited for their American visas. According to Claimant Straus, when the visas were granted, Eva Straus and three of her siblings emigrated to the United States. Claimant Straus indicated that Eva Straus is still alive and living in California.

Claimant Straus submitted: (1) a copy of his aunt's birth certificate, indicating that Eva Straus was born on 22 December 1922 in Karlsruhe, to Friedrich Straus and Edith Straus, née Meyer; (2) a copy of his aunt's German passport, issued in Karlsruhe on 5 September 1934, which indicates that Eva Straus was born in Karlsruhe on 22 December 1922, and resided in Karlsruhe; (3) a copy of his father's birth certificate, indicating that Irwin Straus was born in Karlsruhe on 2 February 1920 to Friedrich Straus, and Edith Straus, née Meyer; and (4) a copy of his own birth certificate, indicating that his father is Irwin Yehudah Straus, who was born in Karlsruhe.

Claimant Straus indicated that he was born 23 May 1943 in New York. Claimant Straus is representing his stepmother, Maxene Straus, née Taylor, who was born on 22 October 1926 in Dresden, Tennessee, the United States, and his sister, Margaret Edith DeGo, née Straus, who was born on 17 July 1947 in New York.

Claimant Mathan

Claimant Mathan, who is another of Claimant Straus's paternal aunts, submitted a Claim Form identifying the Account Owner as her sister, Eva Linker, née Straus, who was married to Henry Linker. Claimant Mathan identified her parents as Frederick Abraham Straus and Edith Straus, née Meyer. Claimant Mathan indicated that she and her family, who were Jewish, lived in Karlsruhe, Germany until August 1938, when they fled Germany to escape Nazi persecution, arriving in the United States, via Switzerland, in December 1938. Claimant Mathan further stated that the family moved to Berkeley, California, the United States in March 1939, where she still resides. Claimant Mathan submitted a copy of her passport, which indicates that her name is Gerda Straus Mathan, and that she was born in Germany. Claimant Mathan indicated that she was born on 31 January 1921 in Karlsruhe.

The CRT notes that neither Claimant Straus nor Claimant Mathan is representing Eva Linker, née Straus.

Information Available in the Bank's Record

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") did not submit Bank's records pertaining to the Account Owner's assets, but prepared a report on her account. According to this report, the Account Owner was *Mlle.* (Miss) Eva Straus who resided in Karlsruhe, Germany. This report indicates that the Account Owner held a demand deposit account, numbered 6421, which was closed before 1946. The balance of the account is not known. The ICEP auditors reported that there is no evidence that the Account Owner or her heirs closed the account 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 Owner

The Claimants' relative's name, city and country of residence match the published name, city and country of residence of the Account Owner. In support of his claim, Claimant Straus submitted documents, including his aunt's birth certificate and German passport, which provides 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 ICEP auditors' report as the name and city of residence of the Account Owner.

The CRT notes that the name Eva 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. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and resided in Germany until 1938, when she fled, via Switzerland, to the United States.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant Straus's aunt and Claimant Mathan's sister. These documents include the Account Owner's birth certificate, which indicates that her parents were Friedrich and Edith Straus, his father's birth certificate, which indicates that his parents were Friedrich and Edith Straus, and as his own birth certificate, which indicates that his father was Irwin Yehudah Straus. The CRT notes that according to information provided by Claimant Straus, Eva Straus is still alive, but because she has not submitted a Claim Form, and is not represented by the Claimants, she is not included in the award distribution. The CRT notes that, if Eva Straus had filed a claim form, or had been represented by one of the Claimants, she, as the Account Owner, would have been entitled to the total award amount.

The Issue of Who Received the Proceeds

Given that the auditor's report does not indicate to whom the account was closed, or a date of closure for the account; that the Account Owner fled her country of origin due to Nazi persecution; that the Account Owner may have had relatives remaining in her country of origin and that she may therefore have yielded to Nazi pressure to turn over her account to ensure their safety; that the Account Owner or her heirs would not have been able to obtain information about her 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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 Claimant Straus, represented party Margaret Dego, and Claimant Mathan. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process. Second, Claimant Mathan has plausibly demonstrated that the Account Owner was her sister, and Claimant Straus has plausibly demonstrated that the Account Owner was his aunt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

The CRT notes that Claimant Mathan, Claimant Straus, and represented party Margaret Dego, as the sister, nephew, and niece of the Account Owner, are more entitled to a share of the award than represented party Maxene Straus, the wife of the Account Owner's brother.

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 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

As noted above, Claimant Straus indicated that Eva Straus is still alive, but she is not included here because she has not submitted a claim to the CRT, nor is she represented by either of the Claimants in their claims. However, if Eva Straus had filed a claim form, or had been

represented by one of the Claimants, she, as the Account Owner, would have been entitled to the entire award amount.

As the Account Owner has not filed a claim, according to Article 23(1)(d), if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant Mathan is entitled to one-half of the award amount, and Claimant Straus and represented party Margaret Deگو are each entitled to one-fourth of the award amount. As noted above, represented party Maxene Straus is not entitled to a share of the award.

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
12 May 2006