

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to Claimant [REDACTED 3]

in re Account of Elsa Steiner¹

Claim Numbers: 202925/NB;² 733328/NB;³ 220816/NB; 220817/NB⁴

Original Award Amount: 49,375.00 Swiss Francs

Award Amendment Amount: 16,458.33 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Eduard Steiner, the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Gezame Deutsch, née Elza Steiner, and the claims of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Rudolf Steiner.

This Award Amendment is to the published account of Elsa Steiner (the “Account Owner”) at the Delémont branch of the [REDACTED] (the “Bank”).

¹ On 28 June 2006, the Court approved an award to [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) for the account of Elsa Steiner (the “June 2006 Award”), which is the subject of this Award Amendment. See *In re Account of Elsa Steiner* (approved on 28 June 2006).

² In a separate decision, Claimant [REDACTED 1] was awarded the account of Eduard Steiner. See *In re Account of Eduard Steiner* (approved on 31 December 2003).

³ Claimant [REDACTED 2] submitted two Initial Questionnaires (“IQs”), numbered HUN-0148-106 and HUN-01-0148-107, to the Court in the United States in 1999. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned Claim Number 733328 and 733329, respectively. Claimant [REDACTED 2] also submitted a claim, numbered 204955, to the account of Adolf Steiner. In separate decisions, the CRT treated Claimant [REDACTED 2]’s claims numbered 204955 and 733329 to the account of Adolf Steiner. See *In re Account of Adolf Steiner* (approved on 30 March 2007) and *In re Account of Adolf Steiner* (approved on 23 June 2008), respectively.

⁴ [REDACTED 3] (“Claimant [REDACTED 3]”) filed two claims numbered 220816 and 220817. In separate decisions, the Court approved an award to Claimant [REDACTED 3] for the account of Frieda Steiner and a denial to the account of Rudolf Steiner. See *In re Account of Frieda Steiner* (approved on 18 December 2007) and *In re Account of Rudolf Steiner* (approved on 19 July 2007). In separate decisions dated 2 October 2009 and 29 October 2008, the CRT treated Claimant [REDACTED 3]’s claim to the account of Hugo Steiner and to the accounts of Artur Steiner, Jana Steinerova, Frantisek Steinerova, Jan Steiner, Joachim Steiner, and Eleonora Steinerova.

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 28 June 2006, the Court approved an Award to Claimant [REDACTED 1] and Claimant [REDACTED 2] for one account of unknown type owned by the Account Owner (the “June 2006 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 3]. The CRT notes that although Claimant [REDACTED 3] had filed timely claims to the awarded account, her claims were not available for consideration in the June 2006 Award. Subsequent review of Claimant [REDACTED 3]’s claims indicates that she is entitled to share in the original award amount, as detailed below.

The June 2006 Award

In the June 2006 Award, the CRT determined that the Account Owner owned one account of unknown type. The CRT further determined that Claimant [REDACTED 1] and Claimant [REDACTED 2] plausibly identified the Account Owner, that they plausibly demonstrated that they are related to the Account Owner, and that they made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the account. The CRT determined the value of the account to be SF 3,950.00. The current value of this amount was determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00. Finally, the CRT determined that Claimant [REDACTED 1] and Claimant [REDACTED 2] were each entitled to one-half of the award amount.

Information Provided by Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted two Claim Forms identifying the Account Owner as her paternal uncle’s wife, Elsa (Eliska) Steiner, née Schermerova, who was born on 2 March 1899 and who was married to [REDACTED], who was born on 14 August 1896. Claimant [REDACTED 3] stated her father, [REDACTED], was [REDACTED]’s brother. Claimant [REDACTED 3] explained that [REDACTED] and Elsa Steiner, who were Jewish, resided at Žitná 6/681, Prague, Czechoslovakia (now the Czech Republic) and that they did not have any children. Claimant [REDACTED 3] stated that [REDACTED] and Elsa Steiner both perished in concentration camps on an unknown date.

In support of her claims, Claimant [REDACTED 3] submitted her birth certificate, which indicates that her father was [REDACTED]; her father’s birth certificate, which identifies him as [REDACTED]; and a detailed family tree, which indicates that her father’s brother was [REDACTED] and that he was married to Elsa Steiner.

Claimant [REDACTED 3] indicated that she was born on 11 May 1923 in Klatovy, Czechoslovakia (now the Czech Republic).

Information Available in the Bank's Records

As detailed in the June 2006 Award, the Bank's record consists of a printout of the Bank's database. According to this record, the Account Owner was Elsa Steiner. The Bank's record does not contain information about the Account Owner's domicile. The record indicates that the Account Owner held one account of unknown type, which was transferred to the Bank's suspense account for dormant assets on 14 December 1987, as of which date it held a balance of SF 17.90.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 joint the four claims of the Claimants in one proceeding.

Claimant [REDACTED 3]'s Identification of the Account Owner

Claimant [REDACTED 3]'s aunt's name matches the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name. In support of her claims, Claimant [REDACTED 3] submitted her father's birth certificate, indicating that her father was [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same surname recorded in the Bank's record as the surname of Claimant [REDACTED 3]'s father. The CRT further notes that the name Elsa Steiner appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably those of Victims of Nazi persecution (the "ICEP List").

Additionally, the CRT notes that a database containing the names of Victims of Nazi persecution includes a person named Eliska Steinerova, who was born on 2 March 1899 and who was deported from Prague to Theresienstadt on 27 July 1942, and then transferred to Raasiku, Estonia, on 01 September 1942, and who subsequently perished. This matches the information about the Account Owner provided by Claimant [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2]'s sister and Claimant [REDACTED 3]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any

information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other equally plausible claims to this account, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3] have each plausibly identified the Account Owner.⁵

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 3] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish and that she lived in Nazi-occupied Czechoslovakia. The entry from the Yad Vashem Memorial of Israel further indicates that Eliska Steinerova was deported from Prague to Theresienstadt on 27 July 1942, and from Theresienstadt to Raasiku, Estonia, on 01 September 1942, and that she subsequently perished.

Claimant [REDACTED 3]'s Relationship to the Account Owner

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was the wife of Claimant [REDACTED 3]'s paternal uncle. The CRT notes that Claimant [REDACTED 3] submitted her father's birth certificate, identifying him as [REDACTED], which provides independent verification that Claimant [REDACTED 3]'s relative bore the same surname as the Account Owner. Finally, 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 Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as she has asserted in her claim forms.

The Issue of Who Received the Proceeds

As detailed in the June 2006 Award, the Bank's record shows that the account was transferred to the Bank's suspense account on 14 December 1987, where it remains.

⁵ As detailed in the section entitled "Information Available in the Bank's Records," in the June 2006 Award, very little information is available concerning the Account Owner in this case. Usually, in determining whether a claimant has identified an account owner as his or her relative, the CRT considers such factors as an account owner's city or country of residence, profession, and/or nationality. Since such information about the account owner is not available in this case, the CRT considers other, more detailed and nuanced factors. Such factors include, but are not limited to, whether a claimant identified an exact spelling of the account owner's name; whether the claimant was able to provide documentation linking his or her surname to that of the account owner, thereby demonstrating a familial relationship to a person with the same name as the account owner; whether a claimant identified the account owner's name prior to its publication, or despite the fact that the name was never published; and/or whether the fate of the claimant's relative is consistent with the disposition of the claimed account. Based upon these considerations, matches between this account and less plausible claims were disconfirmed, and those claims were excluded from the June 2006 Award.

Amount of the June 2006 Award

As detailed in the June 2006 Award, the Account Owner held one account of unknown type. The Bank's record indicates that the value of the account as of 14 December 1987 was 17.90 Swiss Francs ("SF"). In accordance with Article 31(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), this amount was increased by an adjustment of SF 685.00, which reflected the standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue was determined to be SF 702.90. According to Article 29 of the Rules, if the amount in an account, the type of which is not indicated, was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the June 2006 Award, the adjustment factor was 12.5, and the resulting award amount was SF 49,375.00.

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of Claimant [REDACTED 3]. First, Claimant [REDACTED 3]'s claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that she is the niece of the Account Owner's husband, and that relationship justifies an Award. Third, the CRT determined in the June 2006 Award that it is plausible that neither the Account Owner nor her heirs received the proceeds of the account.

New Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly Claimant [REDACTED 3] is entitled to one-third of the award amount, and Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-third of the award amount.

The CRT notes that in the June 2006 Award, Claimant [REDACTED 1] and Claimant [REDACTED 2] were each awarded one-half of the award amount, and that they are now determined to be entitled to only one-third of the award amount. Recognizing that more than three years have passed since the June 2006 Award, and that there is no indication that Claimant [REDACTED 1] and Claimant [REDACTED 2] were aware that another equally entitled person had filed a claim, the CRT does not seek outright repayment of the overpayment from Claimant [REDACTED 1] and Claimant [REDACTED 2]. However, the amount of overpayment shall be deducted from any award adjustment that may be forthcoming to Claimant [REDACTED 1] or Claimant [REDACTED 2].

Amount and Division of the Award Amendment

As detailed above and in the June 2006 Award, the 1945 value of the account at issue was determined to be SF 3,950.00. Claimant [REDACTED 3] is entitled to one-third of this amount, or SF 1,316.67. 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 an Award Amendment amount of SF 16,458.33. Claimant [REDACTED 3] is entitled to the full amount of the Award Amendment.

Certification of the Award Amendment

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

Claims Resolution Tribunal
16 April 2010