

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Lili Wronker

in re Accounts of Alice Engel

Claim Number: 205663/AG

Award Amount: 181,680.00 Swiss Francs

This Certified Award is based upon the claim of Lili Wronker, née Cassel, (the “Claimant”) to the account of Ida and Hermann Wronker.¹ This Award is to the accounts of Alice Engel (the “Account Owner”) at the [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 her husband’s (Erich Wronker) paternal aunt, Alice Engel, née Wronker. The Claimant indicated that Alice Engel, who was Jewish, was born in 1898 in Frankfurt, Germany, and was married to Dr. Hermann Engel in Germany. According to the Claimant, Alice Engel and her husband lived in Berlin until 1936, where they had two daughters, Marion Engel, who died in 1981, and Ruth Engel, from whom the Claimant has never heard. The Claimant stated that Alice Engel was the daughter of Hermann Wronker and Ida Wronker, the Claimant’s husband’s grandparents, who had two other children: Erich Wronker, who died in 1918; and Max Wronker, the Claimant’s father-in-law, who died in 1966 and was married to Irma Wronker, née Lichter, the Claimant’s mother-in-law, who died in 1983. The Claimant stated that she is the only surviving heir.

The Claimant stated that in 1936 Alice Engel and her husband fled Germany to Cairo, Egypt, where Dr. Hermann Engel owned a private clinic and worked as an orthopedic surgeon. The Claimant also stated that Alice Engel’s family was a very famous and prosperous Jewish family. According to the Claimant, Alice Engel’s father, Hermann Wronker, owned a network of some of the largest and most widely known department stores and warehouses in Germany before the Second World War. The Claimant indicated that Hermann Wronker founded his business in Mannheim and expanded it over the years so it eventually had many branches throughout Germany. The Claimant stated that the difficulties in Hermann Wronker’s life began with the

¹ The CRT will treat the claim to this account in a separate decision.

boycott of Jewish stores on 1 April 1933. He and his wife were deported to East Lodz and murdered in Auschwitz in 1942. The Claimant also stated that Hermann Wronker's family home was destroyed by the Nazis. The Claimant indicated that Alice Engel always knew about the account in Switzerland, which was most likely opened by her father. The Claimant also indicated that the family never spoke about the money or the Second World War. The Claimant stated that the account was most likely a numbered account and was probably located in the Zurich area. According to the Claimant, Alice Engel died in 1985, and her husband died in 1971.

The Claimant submitted a copy of Alice Engel's letter to the Office of Assets for Foreigners with Dormant Accounts, claiming her parents' account, and the copy of a reply letter, dated 5 March 1969, from the Office of Assets for Foreigners with Dormant Accounts stating that the account claimed by Alice Engel could not be found. The Claimant also submitted a copy of a letter to the Red Cross submitted by Alice Engel on 5 March 1969, the Claimant's husband's birth and death certificates, the Claimant's marriage license, the family history translated by the Claimant, pictures of the family's department stores and newspaper articles about the Claimant's family. The Claimant stated that she was born on 5 May 1924 in Berlin.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998 asserting her entitlement to a Swiss bank account owned by her husband's grandfather, Hermann Wronker, and identifying Alice Engel as Hermann Wronker's daughter.

Information Available in the Bank Records

The bank records consist of an opening card and printouts from the Bank's database. According to these records, the Account Owner was Alice Engel and the Power of Attorney Holder was her husband, Dr. Med. Engel, who resided at Bayerischestrasse 52 in Berlin W15, Germany. The bank records indicate that the Account Owner held two accounts, one custody account, numbered 28073, and one demand deposit account held under the same number.

The accounts were closed on 22 June 1937, unknown by whom. The opening date and the amount in the accounts on the date of their closure are unknown. There is no evidence in the bank records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her relative's name and city of residence match the published name and city of residence of the Account Owner. The Claimant identified the Account Owner's husband's profession as a medical doctor, which matches unpublished information about the Power of Attorney Holder's professional title contained in the

bank records. In support of her claim, the Claimant submitted the Claimant's husband's birth and death certificates, the Claimant's marriage license, the family history translated by the Claimant, pictures of the family department stores and newspaper articles about the Claimant's family.

The CRT notes that Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998 asserting her entitlement to a Swiss bank account owned by her husband's grandfather, Hermann Wronker, and identifying the Account Owner as Hermann Wronker's daughter, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her asserted relationship with the Account Owner not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

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 fled Germany to Cairo, Egypt to avoid Nazi persecution. In addition, the Claimant stated that the Account Owner's family house was destroyed by the Nazis, and that the Account Owner's parents were murdered in Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents, including the Claimant's marriage license demonstrating that the Account Owner was the Claimant's husband's aunt. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given the application of Presumptions (e) 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 accounts proceeds were not paid to the Account Owner, the Power of Attorney Holder, or their 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 husband's aunt, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither

the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs. Consequently, the average value of those two accounts was 15,140.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 181,680.00 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 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
April 1, 2003

**ARTICLE 28 OF THE RULES GOVERNING THE CLAIMS RESOLUTION PROCESS
(AS AMENDED)**

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . .", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).