

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Henry Fisch

in re Accounts of Bela Fisch

Claim Number: 400178/SI

Award Amount: 204,750.00 Swiss Francs

This Certified Award is based upon the claim of Henry Enrique Fisch (the “Claimant”) to the published accounts of Bela Fisch (the “Account Owner”) at the Zurich and Lugano branches of [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 paternal uncle, Bela Fisch, who was born on 18 March 1897 in Detta, Hungary, and was married to Olga Fisch, née Anhalzer in 1935 in Győr, Hungary. In a telephone conversation with the CRT on 15 June 2006, the Claimant indicated that his uncle, who was Jewish, was an Austrian national who resided in Northern Italy, due to his work as a representative of *Portland Cement ex Triest*, an Italian company. The Claimant specified that from 1930 till 1938 his uncle traveled extensively to countries in Africa and Latin America in his line of duty. The Claimant explained that after the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”) his uncle joined his older brother Geza Fisch and his family, who were residing in Austria, and they all emigrated to the United States. The Claimant indicated that his uncle stayed in the United States for six months and later emigrated to Quito, Ecuador, where he died on 24 January 1958. In support of his claim, the Claimant submitted a copy of his passport, indicating that his name is Henry Fisch and that he is from Austria. The Claimant indicated that he was born on 1 February 1928 in Vienna, Austria.

Information Available in the Bank’s Records

The Bank’s records consist of two customer cards. According to these records, the Account Owner was Bela Fisch, who resided in Milan, Italy. The Bank’s records indicate that the Account Owner held one demand deposit account, one custody account, numbered V 4218, and

one safe deposit box, numbered 3510. The Bank's records indicate that the demand deposit account was opened in 1933 and was closed on 10 October 1940. The records further indicate that the custody account was closed on 9 January 1939 and the safe deposit box was closed on 9 December 1939. The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's uncle's name matches the published name of the Account Owner. The Claimant identified the Account Owner's place of residence, which is consistent with unpublished information about the Account Owner contained in the Bank's records.¹ The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. 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, that he was an Austrian national and that he fled together with his family from Europe to the United States following the *Anschluss*.

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, demonstrating that the Account Owner was the Claimant's uncle. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of his passport indicating his name is Henry Fisch, which provides independent verification that the Claimant's relatives bore the same family name 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

¹ The CRT notes that the Account Owner resided in Milan, Italy, which is a city in Northern Italy.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the accounts were closed on 10 October 1940, 9 January 1939 and 9 December 1939, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, 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 accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts 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 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 one demand deposit account, one custody account and one safe deposit box. 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 average value of custody account was SF 13,000.00, and the average value of safe deposit box was SF 1,240.00. Consequently, the total 1945 average value of the three accounts is SF 16,380.00. 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 204,750.00.

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).

Certification of the Award

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

Claims Resolution Tribunal
October 20, 2006