

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]
represented by Dr. Martin Kölbl

and Claimant [REDACTED 3]

in re Accounts of Ernst Haurowitz

Claim Numbers: 223141/UM; 601400/UM^{1,2}

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Rudolf Haurowitz, and the claim of Claimant [REDACTED 3] to the unpublished accounts of Ernst Haurowitz.³ This Award is to the unpublished account of Ernst Haurowitz (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards 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.

¹ Claimant [REDACTED 1] submitted an additional claim to the accounts of Leo Perutz, which is registered under the Claim Number 223339. In decisions dated 30 August 2002 and 31 December 2003, the Court approved two Awards to the accounts of Leo Perutz, which were determined to be held by two different individuals named Leo Perutz. See *In re Account of Leo Perutz* and *In re Account of Arthur Perutz, Richard Perutz, Felix Perutz and Leo Perutz*.

² Claimant [REDACTED 3] submitted a claim, numbered B-02281, on 26 December 2000, to the Holocaust Claims Processing Office (HCPO) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601400.

³ In Claim Number 601400, Claimant [REDACTED 3] claims the accounts of both Rudolf Haurowitz and Ernst Haurowitz. The CRT will treat the claims of both Claimants to the accounts of Rudolf Haurowitz in a separate decision.

Information Provided by the Claimants

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her father, Ernst (Ernesto or Arnost) Walter Haurowitz, who was born on 6 July 1902 in Prague, Austria-Hungary (now the Czech Republic), and was married to [REDACTED], née [REDACTED], on 2 October 1940. Claimant [REDACTED 3] indicated that her father resided at Vaclavske namesti 14 in Prague until December 1939. Claimant [REDACTED 3] further indicated that her father, who was Jewish, was a director at *L. Haurowitz*, a textile manufacturing company owned by his father, [REDACTED]. Moreover, Claimant [REDACTED 3] indicated that her father left Czechoslovakia in December 1939, and that he fled to Buenos Aires, Argentina via several countries. More specifically, Claimant [REDACTED 3] indicated that her father resided in Italy until June 1940, in Yugoslavia until November 1940, and that he subsequently stayed in Turkey, Iraq, India, and Trinidad. Finally, Claimant [REDACTED 3] indicated that her father arrived in Buenos Aires in March 1941, and that he remained there until his death on 16 June 1973.

Claimant [REDACTED 3] submitted her birth certificate, identifying her as the daughter of Ernesto Haurowitz; her father’s death certificate, identifying him as Ernesto Gualterio Haurowitz, and indicating that he was born in Prague; and a certified translation of the death certificate, indicating that her father also used the name Ernst Walter Haurowitz. Claimant [REDACTED 3] indicated that she was born on 26 June 1945 in Buenos Aires.

In addition, Claimant [REDACTED 3] submitted several documents relating to Swiss bank accounts owned by her father. These documents include two letters from a bank, the *Zivnostenska Banka* in Prague, to Arnost Haurowitz, dated 2 December 1939 and 5 December 1939, confirming transfers of 72,000.00 Czechoslovak Crowns and 26,400.00 Czechoslovak Crowns, respectively, to his new account at the Bank.

Claimant [REDACTED 3] also submitted a letter from her father to the Bank, dated 3 November 1960, in which he requested information about accounts belonging to his late father, [REDACTED]. In that letter, Claimant [REDACTED 3]’s father explained that his father’s company, *L. Haurowitz* of Prague, held an account at the Bank, and that the Bank granted large loans to the company. Claimant [REDACTED 3]’s father explained further that his father, he himself, and his brother, [REDACTED], were authorized to act on behalf of the company. In this letter, Claimant [REDACTED 3]’s father stated that he could not remember whether his father held a personal account at the Bank, but added that his father would have granted him power of attorney, if his father had such an account. In addition, Claimant [REDACTED 3]’s father stated that he himself previously owned an account under his own name at the Bank, which was opened on 6 December 1939 and closed on 31 December 1945, and in connection with which, as of December 1940, the Bank sent correspondence to him via his brother [REDACTED], who was residing in Turkey at the time. Claimant [REDACTED 3]’s father further stated that another account was maintained at the Bank under the names of his father, his brother [REDACTED], and his own name between 1939 and 1940, and that it was put under his name only after February 1940. In this letter, Claimant [REDACTED 3]’s father did not inquire about the two accounts he previously held at the Bank in his own name. Claimant [REDACTED

3] also submitted the Bank's response to her father's letter, dated 10 November 1960, in which the Bank stated that an account in her father's name existed at the Bank, and that its balance was SF 3,881.20. In its letter, the Bank said that it was willing to accept the Claimant's father and his brother as [REDACTED]'s heirs, and requested a copy of his death certificate. The Bank noted that it had no records of certain securities, about which the Claimant's father had specifically inquired, and noted that it had not retained all records pertaining to War-time accounts.

In addition, Claimant [REDACTED 3] submitted a letter from the Bank to the HCPO, dated 26 September 2001, in which the Bank stated that a search of its archives revealed a safe-keeping, or custody, account, which was initially registered under the names of [REDACTED], [REDACTED] and Ernst Walter Haurowitz, all of Prague, then transferred to Ernst Haurowitz's name in February 1940, and closed in 1941; another custody account, registered under Ernst Haurowitz's name, which was opened on 10 December 1939 and closed in December 1945; and a third custody account, which was closed in 1941.

Claimant [REDACTED 3] also submitted an unsigned letter apparently from [REDACTED] to his brother Ernst. The letter is undated, but it was clearly written during the War, as it contains references to censorship. In the letter, [REDACTED] describes his management of two custody accounts held by Ernst at the Bank, numbered 60982 and 5334. In the letter, [REDACTED] also asks Ernst if he, as Ernst's power of attorney, should sign statements regarding the accounts.

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal uncle, Ernst (Arnost) Haurowitz, who was born on 6 July 1902 in Prague, and who was a younger brother of Claimant [REDACTED 1]'s father, [REDACTED]. Claimant [REDACTED 1] indicated that his uncle, who was Jewish, died on 16 June 1973 in Buenos Aires.

Claimant [REDACTED 1] submitted his father's death certificate, identifying Claimant [REDACTED 1] as his son; a letter of transfer relating to the estate of [REDACTED], issued by the Prague state notary's office, identifying [REDACTED] and Arnost Haurowitz as his sons; and the birth certificate of [REDACTED 2], identifying her father as [REDACTED], and his father as [REDACTED]. Claimant [REDACTED 1] indicated that he was born on 9 March 1931 in Prague. Claimant [REDACTED 1] is representing his sister, [REDACTED 2], née [REDACTED], who was born on 26 May 1929, also in Prague.

Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report any accounts belonging to Ernst Haurowitz during their investigation of the Bank. As noted above, the relevant documents were submitted directly by Claimant [REDACTED 3], or were obtained from the Bank by the HCPO on Claimant [REDACTED 3]'s behalf, and were forwarded to the CRT.

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 have plausibly identified the Account Owner. Claimant [REDACTED 3]'s father's, and Claimant [REDACTED 1]'s uncle's, name and city of residence match the name and city of residence of the Account Owner identified in the documents submitted to the CRT. In addition, the Claimants identified their relative's father, which matches information about the Account Owner specified in the documentation submitted to the CRT. In support of her claim, Claimant [REDACTED 3] submitted documents, including a certified translation of her father's death certificate, identifying him as Ernst Walter Haurowitz, and indicating that he was born in Prague, 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 documents as the name and city of residence of the Account Owner. Similarly, Claimant [REDACTED 1] submitted documents, including a letter of transfer relating to the estate of [REDACTED], issued by the Prague state notary's office, identifying Arnost Haurowitz as one of his sons, providing independent verification that the person who is claimed to be the Account Owner had the same name specified in the documents as the name of the Account Owner.⁴ In addition, the documents provide independent verification that the person who is claimed to be the Account Owner had a father with the same name as the individual identified as the Account Owner's father in the documentation submitted to the CRT. The CRT notes that there are no other claims to these accounts.

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 Claimant [REDACTED 3] stated that he fled Czechoslovakia in December of 1939.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her father. These documents include her own birth certificate, identifying her as the daughter of Ernesto Haurowitz.

⁴ The CRT notes that "Arnost" is the Czech equivalent of "Ernst."

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was his paternal uncle. These documents include his father's death certificate, identifying Claimant [REDACTED 1] as his son, and a letter of transfer relating to the estate of Claimant [REDACTED 1]'s paternal grandfather, identifying [REDACTED] and Arnost Haurowitz as brothers.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Account Owner's letter of 3 November 1960 to the Bank describes two accounts: one account opened on 6 December 1939 and closed on 31 December 1945, and one account opened under the names of [REDACTED], [REDACTED] and Ernst Haurowitz, and registered under Ernst Haurowitz's name only as of February 1940. Moreover, the CRT notes that the letter of 2 December 1939 from the *Zivnostenska Banka* to the Account Owner references a "new account" of the Account Holder at the Bank. Finally, the CRT notes that the letter of 26 September 2001 from the Bank to the HCPO describes three accounts: one initially held under the names of [REDACTED], [REDACTED] and Ernst Walter Haurowitz, transferred to Ernst Haurowitz's name on 8 February 1940, and closed in 1941; a second account, opened on 10 December 1939 and closed in December of 1945; and a third account, described only as having been closed in 1941.

Given the substantial similarity of the descriptions of the accounts in the three sources, the CRT determines that the "new account" referred to by the *Zivnostenska Banka* is the same account as that referred to as having been closed in 1945 in both the letter from the Account Owner to the Bank, and the letter from the Bank to the HCPO. Similarly, the CRT determines that the second account referred to in the letter from the Account Owner to the Bank is the same account as the account described as having been renamed in 1940 and closed in 1941 in the letter from the Bank to the HCPO. The CRT further notes that the letter from the Account Owner to the Bank, dated 3 November 1960, includes no inquiry regarding the status of the two accounts described therein. Instead, the communication consists of the Account Owner informing the Bank of his past account ownership for purposes of identifying both himself and his father, in connection with an inquiry regarding accounts held by that relative. The CRT further notes that the undated letter from [REDACTED] to the Account Owner, written during the course of the War, indicates that the Account Owner maintained control over at least two of his accounts. Accordingly, the CRT determines that the Account Owner was able to access and close the aforementioned accounts and concludes that he closed those accounts and received the proceeds himself.

The CRT notes that, in contrast to these two accounts, the Account Owner's 1960 letter makes no reference to the third account addressed in the Bank's 2001 communication, which is described only as a safe-keeping, or custody, account, that was closed in 1941. Thus, there is no indication that the Account Owner received the proceeds of that account. The CRT further notes that there is no indication that this account was closed at the same time as the other custody

account closed in 1941. Given that the Account Owner fled his country of origin due to Nazi persecution, 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 Claimant [REDACTED 3]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her 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 one of the claimed accounts. Further, the CRT notes that Claimant [REDACTED 3], as the Account Owner's daughter, has a better entitlement to the account than Claimant [REDACTED 1], the Account Owner's nephew, or [REDACTED 2], the Account Owner's niece.

Amount of the Award

For purposes of this Award, the Account Owner held one custody 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 custody account was SF 13,000.00. 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 162,500.00.

Division of the Award

As indicated above, Claimant [REDACTED 3] has a better entitlement to the Award than Claimant [REDACTED 1] and his sister. Accordingly, Claimant [REDACTED 3] is solely entitled to the total award amount.

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
31 August 2005