

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Margot Ingeborg Lauchheimer

in re Accounts of Wilhelm Maass, Cilly Maas and *Frau* Wilh. Maas

Claim Number: 206909/AH

Award Amount: 222,250.00 Swiss Francs

This Certified Award is based upon the claim of Margot Ingeborg Lauchheimer, née Maas (the “Claimant”) to the accounts of Wilhelm Maas and Cilly Maas. This Award is to the accounts of Wilhelm Maass (“Account Owner Wilhelm Maass”) and *Frau* Wilh. Maas (“Account Owner *Frau* Wilh. Maas”) at the Zurich branch of the [REDACTED] (the “Bank”) and to the account of Cilly Maas (“Account Owner Cilly Maas”) at the Basel branch of the Bank. Account Owner Wilhelm Maass, Account Owner *Frau* Wilh. Maas, and Account Owner Cilly Maas are referred to collectively in this Award as the “Account Owners.” The accounts awarded are from the Total Accounts Database (the “TAD”) at 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 Owners as her parents, Cilly Maas, née Rosenheimer, and Wilhelm Maas. The Claimant stated that her mother was born on 5 April 1893 in Germany and was married in August 1919 in Germany to Wilhelm Maas, who was born on 17 June 1884 in Hemsbach, Germany. The Claimant stated that her father was in the leather business located at B. 6 20, in Mannheim, Germany, where he lived with his family, all of whom were Jewish, from 1919 until December 1937. The Claimant added that in December 1937, upon receipt of a temporary visa, her family moved to Arosa, Switzerland in order to escape Nazi persecution. The Claimant explained that a condition of this permit was to deposit funds in a Swiss bank in order to prove that they could support themselves. The Claimant stated that for one year, until their visa expired, her family lived at *Haus Wittmer* in Arosa, and then they moved, in 1939, to Havana, Cuba. Finally, according to the Claimant, in 1940 her family made their way to New York, New York, where her parents lived until her father died in April 1969 and until her mother died in May 1979.

In a telephone conversation with the CRT on 11 March 2004, the Claimant indicated that her father may have used an alternate spelling of his last name. The Claimant further indicated that her mother had two brothers by the names of Lothar Rosenheimer, who was born in 1897 in

Germany, and Max Rosenheimer, who was born in 1895 in Germany. The Claimant stated that both her mother's brothers resided in Berlin, Germany, where Max owned a dress factory and Lothar a shoe manufacturing business. The Claimant added that Max and Lothar immigrated to New York in 1934 or 1933, where they remained until their deaths in November 1959 and 1990, respectively. The Claimant indicated that Max Rosenheimer was married to Lotte Dans, who passed away in 1995, and that together they had a son, Otto Michael Rosenheimer, who is still living. The Claimant further stated that Lothar Rosenheimer married Liselotte Rosenheimer, who is currently living in a nursing home and who had no children. In the telephone conversation, the Claimant added that she is certain that her parents would have owned accounts in branches of banks in Basel, Switzerland, because Basel was the first town her parents arrived in after crossing the Swiss – German border. The Claimant stated that her parents may have also owned accounts in Zurich, Switzerland, since she remembers being there with her parents.

In support of her claim, the Claimant submitted a detailed family tree and a copy of her birth certificate, listing her parents as Wilhelm Maas and Cilly Maas, née Rosenheimer who resided in Mannheim, Germany. The Claimant also submitted a certificate from the authorities of the community of Arosa [*Einwohnerkontrolle Arosa*] dated 19 March 2001, which certifies that Cilly Maas and her daughter Margot, who was born on 4 March 1926, were registered with the Arosa authorities and resided in the community of Arosa beginning on 14 February 1938. The certificate indicates that the date of departure of Cilly and Margot Maas is not clear in the books, and that it could be either 30 September 1938 or 20 January 1939. The Claimant indicated that she was born on 4 March 1926 in Mannheim.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Wilhelm Maas and Cilly Maas, née Rosenheimer.

Information Available in the Bank's Records

The Bank's records consist of a compilation of account balances from 1938 and 1944, copies of Power of Attorney forms, and printouts from the Bank's database. These records indicate the existence of three accounts at the Bank.

According to these records, the Account Owner of the first account was *Frau* (Mrs.) Wilh. Maas, who was registered at an unknown address in Zurich, Switzerland [*Zürich Adr. unbekannt*]. The Bank's records indicate that the Account Owner held a savings account and that its value in 1944 was 97.00 Swiss Francs. Furthermore, the Bank's records indicate that the account number was originally 991 and that it was later changed to 5221. The Bank's records indicate that the account was suspended as of 31 December 1944, and remains open and dormant.

According to the records, the Account Owner of the second account was *Frau* (Mrs.) Cilly Mass, née Rosenheimer, with address at B.6 20 in Mannheim, Germany. The Bank's records indicate that the Account Owner held a custody account number 36562. The Bank's records further indicate that on 30 September 1931, in Basel, *Herr* (Mr.) Max Rosenheimer of Zimmerstrasse 48B, S.W. 68 Berlin, Germany, was authorized as Power of Attorney Holder to the account, and that on 10 December 1937, in Basel, the Account Owner's husband, Wilhelm Maas, was also

authorized as Power of Attorney Holder to the account.¹ The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account.

According to the records, the Account Owner of the third account was *Herr* (Mr.) Wilhelm Maass, registered at an unknown address in Zurich, Switzerland. The Bank's records indicate that the Account Owner held an unknown type of account, which was numbered 61969. The account was opened on 4 March 1938 and was closed upon transfer to a third party – the *Ephrussi Bank* in Vienna, Austria – on 14 April 1938.² The Bank's records do not show to whom the account at issue was paid, nor do these records indicate the value of this account.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the databases comprising the approximately 4.1 million accounts representing the approximately 6.8 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 accounts, in databases located at the 59 ICEP audited Swiss banks,³ are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database -- the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

In order to expedite the results of the ICEP investigation, certain necessarily arbitrary presumptions were used to exclude the 1.9 million savings and Swiss address accounts from the probable or possible accounts category. The 2.2 million were matched against the ICEP's victims database, but the reason for their exclusion in at least a significant number of cases no longer appears to be valid in the light of the experience of the CRT in reviewing cases as part of the Claims Resolution Process. For example, many accounts were excluded from the Account History Database on the grounds of activity after 1945, but in some cases there now appears to be no evidence that the account owners had full dominion over the accounts and were not just inquiring whether the bank, after many years, still maintained the record of their deposits, a fact often denied by the banks in these circumstances as has been demonstrated in many Awards made by the CRT.

These two sources may contain significant numbers of accounts of Nazi victims, especially when it is considered that of the 33,000 claims that were submitted to the CRT, 21,000 did not match to the 36,000 accounts in the Account History Database of probable and possible Nazi victim

¹ The CRT notes that additional Bank records indicate that Max Rosenheim, one of the Power of Attorney Holders of the account of Cilly Maas, held an account in his own name, and that he and the other Power of Attorney Holder, Wilhelm Maas, were Power of Attorney Holders to an account held by Lothar Rosenheim. In the records relating to the account of Lothar Rosenheim, Power of Attorney Holder Wilhelm Maas is referred to as "Wilh. Maas." The CRT will treat these two accounts in separate decisions.

² According to research performed by the CRT, the *Ephrussi Bank* in Vienna was fully "aryanized" on 27 April 1938.

³ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

accounts. Because of the significant potential of this body of accounts, in its final Report in December 1999, ICEP specifically recommended that all claims submitted to the CRT should be matched against the applicable databases of accounts. The Rules Governing the Claims Resolution Process provide the procedures under which the TADs would be available for matching and research, but as a practical matter, until now, they have not been available to the CRT for this purpose.

Starting in the first week of this year, a test of the TAD was initiated at the Bank, with its full cooperation. The results of this test are now being compiled. This award is part of a group of accounts identified during the TAD test. Others are in the process. A final recommendation on the use of the TAD will be made to the Court when the final results of the test have been compiled.

The CRT's Analysis

Identification of the Account Owners

The Claimant's mother's and father's names match the unpublished names of the Account Owners.

With respect to the account of Account Owner *Frau* Wilh. Maas, the Claimant's father's name and her mother's marital status match the unpublished information contained in the bank records that refers to the Account Owner as *Frau* Wilh. Maas. Moreover, in the bank records of the accounts referred to in footnote 1, Wilhelm Maas is referred to as "Wilh. Maas," which corresponds to the spelling of the name of Account Owner *Frau* Wilh. Maas in these records. The Claimant further stated that her parents lived for a period of time in Arosa, Switzerland and were required to open a Swiss bank account in order to gain entry to Switzerland. The unpublished information about Account Owner *Frau* Wilh. Maas contained in the Bank's records regarding an unknown address in Zurich is consistent with the use of a temporary address that would have been plausibly used by the Claimant's parents to open an account.

With respect to the account of Account Owner Cilly Maas, the Claimant identified her mother's maiden name, her address in Mannheim, Germany, and the period when she resided in Mannheim, which match the unpublished information regarding this Account Owner's maiden name, residence, and period during which this Account Owner resided at that location. The Claimant also identified her father's name, her maternal uncle's name and his city of residence in Germany, all of which match the unpublished information regarding the Power of Attorney Holders' names and addresses contained in the bank records. Moreover, the Claimant indicated that she is certain that her parents owned accounts in bank branches located in Basel, which matches the unpublished information about the branch of the Bank in which this account was opened.

With respect to the account of Account Owner Wilhelm Maass, the Claimant identified her father's name, and indicated that he may have used an alternate spelling of his last name. Furthermore, the CRT notes that the Claimant indicated that her parents may have owned an

account in Zurich, which matches the unpublished information about the bank branch in which the account was opened. The Claimant further stated that the Account Owner lived for a period in Arosa, Switzerland and was required to open a Swiss bank account in order to gain entry to Switzerland. The unpublished information about the Account Owner contained in the Bank's records regarding an unknown Account Owner address in Zurich is consistent with the use of a temporary address that would have been plausibly used by the Claimant's parents to open an account. The CRT further notes that the certificate submitted by the Claimant indicates that she and her mother resided in Arosa beginning 14 February 1938, is consistent with the unpublished opening date of the account on 4 March 1938, soon after the Claimant's parents' arrival in Switzerland.

In support of her claim, the Claimant submitted documents, including a copy of her birth certificate, listing her parents as Wilhelm Maas and Cilly Maas, née Rosenheimer who resided in Mannheim, Germany. The Claimant also submitted a certificate from the authorities of the community of Arosa [*“Einwohnerkontrolle Arosa”*] dated 19 March 2001, which certifies that Cilly Maas and her daughter Margot, who was born on 4 March 1926, were registered with the Arosa authorities and resided in the community of Arosa beginning on 14 February 1938. The certificate indicates that the date of departure of Cilly and Margot Haas is not clear in the books, and that it could be either 30 September 1938 or 20 January 1939. These documents provide independent verification that the persons who are claimed to be the Account Owners had the same names and addresses as the persons identified in the Bank's records as the Account Owners. These documents also demonstrate the Claimant's parents' connection to Switzerland.

Although the Account Owners names were not published on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the *“ICEP List”*), the Claimant filed an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Wilhelm Maas or Cilly Maas. This supports the credibility of the information provided by the Claimant. The CRT notes that the other claims to these accounts were disconfirmed because these Claimants provided a different name and/or city or county of residence than the Account Owners in this case. Other claims to the account belonging to Account Owner Cilly Maas, failed to identify the Power of Attorney Holders, and/or the Account Owner's spouse. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and were forced to flee Mannheim, Germany in December 1937.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's parents. These documents include a copy of her birth certificate, listing her parents as Wilhelm Maas and Cilly Maas, née Rosenheimer, who resided in Mannheim, Germany. The

Claimant has indicated that her mother's late brother, Max Rosenheimer, had a son, Otto Michael Rosenheimer, who is still living, and that her mother's other late brother, Lothar Rosenheimer, was married to Liselotte Rosenheimer, who is currently living in a nursing home. To date, the CRT has not received any claim forms from Otto Michael Rosenheimer or from Liselotte Rosenheimer.

The Issue of Who Received the Proceeds

With respect to the account of Account Owner *Frau* Wilh. Maas, the Bank's records indicate that the account was suspended as of 31 December 1944 and remains open and dormant.

With respect to the account of Account Owner Cilly Maas, given that the Account Owner and her family fled Germany and resided in Switzerland as refugees under limited-time residency permits; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her account after the Second World War from the Bank 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 (f), (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 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.

With respect to the account of Account Owner Wilhelm Maass, given that the Account Owner and his family fled Germany and resided in Switzerland as refugees under limited-time residency permits; that the account was opened on 4 March 1938 as a condition for entry and residence in Switzerland on 4 March 1938, shortly after the Claimant's mother officially registered with Swiss authorities; that the account was closed a month later, prior to the Claimant's parents' departure from Switzerland, and that the closure was effected by the transfer of the proceeds to the third party *Ephrussi Bank* in Vienna, which was "aryanized" by the Nazis two weeks later; that the proceeds of an account that were transferred to Austria after the Nazi annexation (the "*Anschluss*") would have likely been confiscated by the Nazis; and given the application of Presumptions (a)(ii), (f), (h) and (j), as provided in Article 28 of the Rules, 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 Owners were her mother and father, and

those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held a savings account, a custody account and an account of unknown type. The Bank's records indicate that the value of the savings account as of 31 December 1944 was 97.00 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings account was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 830.00 Swiss Francs. The current value of this amount is calculated by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, which produces an award amount of 10,375.00 Swiss Francs.

In the case of the custody account and the account of unknown type, 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 13,000.00 Swiss Francs and the value of an account of unknown type was 3,950.00 Swiss Francs. Thus, the total historic value of these accounts is 16,950.00 Swiss Francs. The current value of this amount is calculated by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, which produces an award amount of 211,875.00 Swiss Francs.

Consequently, the total award amount in this case is 222,250.00 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) at banks other than the Bank.

Certification of the Award

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

Claims Resolution Tribunal
8 April 2004