

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Dr. Emil Taubes

Claim Number: 716264/BI¹

Award Amount: 216,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Henry (Henrik) and Bronislava Tibor (Taubes).² This Award is to the unpublished accounts of Dr. Emil Taubes (the “Account Owner”), over which *Frau* Dr. Sophie Schmorak (“Power of Attorney Holder Schmorak”) and *Frau* Bronislawa Tibor (“Power of Attorney Holder Tibor”) (together the “Power of Attorney Holders”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database (“TAD”) at the Bank.

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

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) claiming the account of his parents, Henry (Henrik) and Bronislava Tibor, formerly Taubes. In a telephone conversation with the CRT on 25 July 2007, the Claimant identified the Account Owner as his maternal uncle, Dr. Emil Taubes, who resided in Vienna, Austria. The Claimant indicated that his uncle, who was Jewish, was an attorney at law, and that the Viennese branch of the Taubes family owned a bank. The Claimant further added that his uncle obtained a certificate of immigration to Palestine and

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HEB-0141-033, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires, 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 IQ was forwarded to the CRT and has been assigned claim number 716264.

² The CRT did not locate an account belonging to Henry (Henrik) Tibor (Taubes) or to Bronislava Tibor (Taubes) in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

that in 1938 or early 1939, he fled Austria to Palestine after the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”). The Claimant indicated that his uncle returned to Vienna in 1951, before he emigrated to the United States, where he passed away.

The Claimant indicated that his mother, [REDACTED], née [REDACTED], was born on 4 July 1882 in Budapest, Hungary, and was married to [REDACTED], formerly [REDACTED], who was born on 29 May 1879 in Hungary. The Claimant stated that his parents, who were Jewish, were cousins, and that they changed their family name from [REDACTED] to [REDACTED] in 1919. The Claimant added that his parents left Budapest in 1919 or 1920 and resided in Vienna, where they had relatives, including his mother’s brother, Emil Taubes, for an unknown period of time, before returning to Hungary, where they resided at Tükör utca 4 in Budapest. The Claimant indicated that his parents fled Hungary to Palestine in March 1941, that his father passed away on 4 October 1949 in Jerusalem, Israel, and that his mother passed away on 4 July 1977 in Herzliya, Israel.

The Claimant indicated that he was born on 11 January 1922.

Information Available in the Bank’s Records

The Bank’s records consist of an account opening card, an instruction form for the opening of a custody account, signature samples, a Power of Attorney form, and a list of closed accounts held by Austrian citizens. According to these records, the Account Owner was Dr. Emil Taubes, attorney at law, who resided at Elisabethstrasse 3 in Vienna I, Austria, and the Power of Attorney Holders were *Frau* (“Mrs.”) Dr. Sophie Schmorak, who resided in Warsaw, Poland, and *Frau* (“Mrs.”) Bronislawa Tibor, who resided in Budapest, Hungary. According to these records, the Account Owner held three accounts: one custody account numbered 39720; one auxiliary checking account held in Swiss Francs (“SF”); and one auxiliary demand deposit account held in Pound Sterling (“£”).

The Bank’s records indicate that the Account Owner opened the accounts on or before 13 May 1936 through a transfer of assets from accounts held by Power of Attorney Holder Schmorak. According to a power of attorney form and notes on the account opening card, on 12 June 1936, the Account Owner granted individual power of attorney over the accounts to the Power of Attorney Holders and authorized them to use the funds in the accounts. The records contain samples of the signatures of the Account Owner and the Power of Attorney Holders.

According to notes on the account opening card, the Account Owner initially requested the Bank to send monthly and quarterly reports regarding the accounts to *Fraulein* (“Miss”) Magda Friedmann, at Schleifmühlgasse 3 in Vienna. As of March 1938, however, the Bank was ordered to hold all correspondence. According to notes on the account opening card, on 11 March 1938, just before the *Anschluss*, the Account Owner wrote to the Bank and instructed it, in case urgent measures needed to be taken due to conversion rates or coupon redemptions, the Bank should take appropriate action at the Bank’s discretion.

According to the instruction form for the opening of a custody account, dated 30 March 1938 and signed by the Power of Attorney Holders on behalf of the Account Owner, the custody account numbered 39720 was closed on 23 March 1938, and the assets from that account were to be deposited in another custody account in the Account Owner's name. The form indicates that all correspondence with regard to the new account should be held by the Bank.

According to the list of closed accounts held by Austrian citizens, the Account Owner's custody account, numbered 39720, was closed on or before 6 April 1938, the value of the securities held in that account still had to be calculated, and the assets in the custody account were transferred to a numbered custody account. The amount in custody account numbered 39720 on the date of the transfer is unknown. It is not clear from the records whether the assets in the auxiliary checking account and the demand deposit account were transferred to the Account Owner's new numbered custody account, but a notation on the account opening card indicates that all three accounts were closed on or before 23 March 1938. The amounts in these accounts on the date of their closure are unknown. The Bank's records do not indicate the fate of the new numbered custody account. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or their heirs closed that account, or the checking and demand deposit accounts, and received the proceeds themselves.

According to an internal note by the Bank, on 12 April 1938, the Account Owner instructed the Bank not to provide any information regarding his former account in response to requests to provide such information, even if the Account Owner himself signed the request.

The Bank provided the CRT with additional documents regarding these accounts. These documents consist of lists of numbered accounts and a Power of Attorney form, signed by Bronislawa Tibor, which indicates that she resided at 4 Tükör utca in Budapest. The CRT notes that Bronislawa Tibor's signature on this Power of Attorney form is identical to the signature samples of Power of Attorney Holder Tibor.

These additional records indicate that on 21 March 1938, an individual who resided in France and who appears to be related to Power of Attorney Holder Tibor, opened a new numbered custody account, which was later held in the name of Power of Attorney Holder Tibor, and that this account was closed on 27 February 1975.

These accounts were not part of the Account History Database ("AHD") at the CRT, but were 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 several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") 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 million accounts, in databases located at the 59 ICEP audited Swiss banks,³ are composed of 1.9 million savings accounts with unknown values or a 1930-1940s value of 250.00 Swiss Francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be

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

included within the AHD Database, that is, within the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution.

The accounts awarded are part of a group of accounts identified in the TAD.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and Power of Attorney Holder Tibor. The names and city and country of residence of the Claimant’s uncle and mother match the unpublished names and city and country of residence of the Account Owner and of Power of Attorney Holder Tibor. The Claimant identified the Account Owner’s profession and title and Power of Attorney Holder Tibor’s maiden name and her exact address in Budapest, which match unpublished information about the Account Owner and about Power of Attorney Holder Tibor contained in the Bank’s records. The CRT notes that there are no other claims to these accounts.

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 that he fled Austria to Palestine after the *Anschluss* in 1938 or early 1939.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner and to Power of Attorney Holder Tibor by submitting specific information, demonstrating that the Account Owner was the Claimant’s uncle and that Power of Attorney Holder Tibor was the Claimant’s mother. The CRT notes that the Claimant identified unpublished information about the Account Owner and about Power of Attorney Holder Tibor as contained in the Bank’s records; and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between Power of Attorney Holder Tibor and the Claimant. 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 IQ. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank’s records indicate that the custody account, the demand deposit account and the checking account were closed on 23 March 1938 and that the assets in the custody account was transferred to a numbered custody account held by the account owner, the disposition of which is unknown.

Given that the Account Owner fled from Austria to Palestine after the *Anschluss*; that there is no record of the payment of the Account Owner's accounts to him or to the Power of Attorney Holders, or any date of closure for the numbered custody account which was opened by a transfer of funds from custody account 39720; that the Account Owner and his heirs would not have been able to obtain information about the accounts 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 (a), (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 demand deposit and the checking account proceeds were not paid to the Account Owner, the Power of Attorney Holders, 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 his uncle and that Power of Attorney Holder Tibor was his mother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held three accounts: one custody account, one demand deposit account and one checking account. Checking accounts are not identified specifically as account types in the Rules and are therefore treated as "other" types of accounts. 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 average value of a demand deposit account was SF 2,140.00 and the average value of an "other" type of account was SF 2,200.00. Thus, the combined 1945 average value for the three accounts at issue is SF 17,340.00. 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 216,750.00.

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 claim 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) 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
10 November 2007