

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victims Assets
Case No. CV96-4849

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Accounts of *A.E. Wassermann Bankgeschäft*

Claim Numbers: 219059/PY; 219359/PY; 219379/PY; 219940/PY; 219960/PY; 220139/PY;
220149/PY; 220209/PY; 220129/PY; 220189/PY¹

Award Amount: 676,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”), to the published accounts of *A.E. Wassermann* (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”), the Diessenhofen branch of the [REDACTED] (“Bank II”) and the [REDACTED] (“Bank III”) (together the (“Banks”).²

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 banks have been redacted.

Information Provided by the Claimants

The Claimants submitted Claim Forms identifying the Account Owner as a bank, *Bankhaus A.E. Wassermann* of Germany, which they said was owned by their maternal grandfather, Dr. [REDACTED]. The Claimants indicated that their grandfather was born on 14 November 1872 in Bamberg, Germany, and was married to [REDACTED], née [REDACTED], on 8 April 1904 in Bad Homburg, Germany. The Claimants further indicated that their grandparents had two daughters, [REDACTED], née [REDACTED], the Claimants’ mother, who was born on 4

¹ The Claimants submitted additional claims to the accounts of [REDACTED], [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 220119, 220169, 219369, 219950, 219930, 220219, 219349, and 220159, respectively. The CRT will treat the claims to these accounts in separate decisions.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), *A.E. Wassermann* is published as the name of an individual, and as having 13 accounts. Upon careful review, the CRT has concluded that *A.E. Wassermann* was in fact a legal entity, and that the Bank’s records evidence the existence of 12 accounts. The CRT is treating the seven accounts published as belonging to Wassermann A.E. [France] in a separate decision.

August 1906 and died on 29 August 1999, and [REDACTED], née [REDACTED], who was born on 16 February 1910 and died on 10 March 1998, without issue. The Claimants stated that their grandfather, who was Jewish, was a banker and an attorney who was a member of the prominent Wassermann banking family from Bamberg. According to information provided by the Claimants, their grandfather held the title of *Justizrat* (counselor-at-law). The Claimants further stated that *Bankhaus A.E. Wassermann*, whose main seat was at Sophienstrasse 1 in Bamberg, had branches in Berlin, Germany at Burgstrasse 23 and later at Wilhelmplatz 7, and also in other European countries. According to the Claimants, their grandfather, as part-owner of *Bankhaus A.E. Wassermann*, had banking relationships with Swiss banks either directly or through the Bank's various agents, many of whom were his relatives. The Claimants indicated that in addition to owning *Bankhaus A.E. Wassermann*, their grandfather was also a partner in the Swiss bank *Michelis & Co* in Zurich, Switzerland. The Claimants further indicated that their grandfather had a number of family members resident in Switzerland prior to the Second World War.

The Claimants submitted a document from Yad Vashem showing that their grandfather's bank was also used by the *Reichsvertretung*, the central representative body of Jews in Germany, for the *Auswanderungskonten*, the accounts into which German Jews were forced to deposit a part of their confiscated assets in order to finance their emigration from Germany. According to this document, the bank was later "aryanized." The Claimants explained that according to the terms of an agreement, dated 25 April 1938, their grandfather was forced to resign from his position at his bank and transfer his interest in the company to Dr. Friedrich Wunder and Dr. Von Wendland.

According to this document, at this time, *Bankhaus A.E. Wassermann* was converted from a general partnership (*OHG (Offene Handelsgesellschaft)*) to a limited partnership (*KG Kommanditaktiengesellschaft*) and was renamed *Wunder, Von Wendland & Co*. According to the Claimants, the district court in Nürnberg-Fürth, Germany, determined on 14 April 1954 that the agreement of 25 April 1938 would not have been entered into if their relative had not been coerced by the Nazis into doing so.

The Claimants indicated that in April 1940, their grandparents fled Germany for Johannesburg, South Africa, where their grandfather resided until his death on 15 November 1943. The Claimants indicated that their grandmother passed away on 10 November 1962. The Claimants submitted numerous documents in support of their claim, including their grandfather's birth certificate, identifying him as [REDACTED] of Bamberg, Germany; his marriage certificate, indicating that he was a banker by profession and that he held the title of Doctor; their mother's birth certificate, identifying her as [REDACTED], the daughter of [REDACTED] and [REDACTED]; the *Bankhaus A.E. Wassermann* company register, dated 1 July 1902, showing that [REDACTED] together with [REDACTED] and [REDACTED] owned the company, and indicating that two of its authorized signatories were Gabriel Kropf and Anton Sünkel; and their own birth certificates identifying their mother as [REDACTED]. The Claimants also submitted a copy of their grandfather's German passport, indicating that he held the title *Justizrat*, and containing his signature. In addition, the Claimants submitted an extract from a book titled *Juden in Bamberg* ("The Jews in Bamberg"), which indicates that *Bankhaus A.E. Wassermann* had its main seat in Bamberg and had branches in Berlin and elsewhere, that the Berlin branch of

the Bank was managed by [REDACTED], [REDACTED] (until 1934), and [REDACTED]'s son, [REDACTED], and that the Bamberg seat was managed by [REDACTED] and [REDACTED]. The extract from the book also indicates that other individuals, including Albert Graf Bernstoff, were authorized to sign on behalf of the Berlin branch. Finally, the Claimants submitted an extract from the company register of Bamberg showing that on 23 June 1938, all managing officials of the firm were replaced by Dr. Friedrich Wunder of Berlin and Dr. Baron Friedrich Karl von Wendland of Frankfurt a.M., which according to a news paper article also provided by the Claimants, explains this change as part of the general move toward aryanization of the banking industry.

Claimant [REDACTED 1] indicated that he was born on 23 March 1938 in Johannesburg. Claimant [REDACTED 2] indicated that she was born on 22 June 1940, also in Johannesburg.

Information Available in the Bank's Records

Bank I

Bank I's records consist of three customer cards, an opening contract for a custody account signed in Bamberg, Germany on 11 December 1936, and printouts from the Bank's database. According to these records, the Account Owner was the bank *Wassermann A.E. Bankgesellschaft* of Bamberg and Berlin, Germany. 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") indicated that the account was jointly held with the *Wassermann'sche Familienstiftung Glarus, Vermögensverwaltung* (the Wassermann Family Foundation, Asset Management, Glarus, Switzerland). Bank I's records indicate that in Berlin the company was located at Wilhemsplatz 7. According to these records, the Account Owner held three custody accounts: one numbered 15820, one numbered 40565, and one numbered 8515 Dep. "B."

The custody account numbered 15820 was opened on an unknown date and closed on 16 December 1936; the custody account numbered 40565 was opened on 11 December 1936 and closed on 24 December 1936; and the custody account numbered 8515 Dep. "B" was opened on an unknown date and closed on 17 June 1937. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in Bank I's records that the Account Owner, its owners, or the *Wassermann'sche Familienstiftung* closed the accounts and received the proceeds themselves.

Bank II

Bank II's record consists of an extract from the Bank's register of demand deposit accounts. According to this record, the Account Owner was *Wassermann A.E. Bankgeschäft*, a bank located in Berlin, Germany. Bank II's record indicates that the Account Owner held one demand deposit account.

Bank II's record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account. The auditors who carried out the ICEP Investigation did not find this account in Bank II's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in Bank II's record that the Account Owner or its owners closed the account and received the proceeds themselves.

Bank III

Bank III's records consist of a list of signature samples of the owners of *Bankhaus A.E. Wassermann*, signature samples of authorized signatories, an extract from a newspaper article, and an account registry. According to these records, the Account Owner was bank *Bankhaus A.E. Wassermann* of Berlin. Bank III's records indicate that the Account Owner held a custody account numbered F7126.

Bank III's records indicate that the owners of *Bankhaus A.E. Wassermann* were *Justizrat* Dr. [REDACTED], [REDACTED], Dr. [REDACTED] and [REDACTED]. The extract from the newspaper article, dated 14 June 1937, indicates that [REDACTED] had ceased to be an owner and that the new co-owners were D. von Heinz and Albrecht Graf von Bernstoff. The list of authorized signatories, dated 1 February 1934, indicates that Albrecht Graf von Bernstoff held a general power of attorney for the branch in Berlin, that the authorized signatories for the Bamberg branch were Gabriel Kropf, Anton Sünkel, Julius Rauber and Simon Wich, and that the authorized signatories for the Berlin branch were Hans Habeck, Hans Hahndorf, Karl Herstatt, Arthur Jacobs, Georg Tecklenburg and Georg Theilemann.

Bank III's records indicate that the account was opened on 3 February 1937 and that it contained 8 1/2 % [REDACTED] bonds at a nominal value of 6,500.00 Swiss Francs ("SF"). According to Bank III's records, the custody account did not contain any other assets. Bank III's records indicate that the account was closed on 19 May 1937. There is no evidence in Bank III's records that the Account Owner or its owners closed the account and received the proceeds themselves.

The auditors who carried out the ICEP Investigation indicated that there is evidence in Bank III's records that the account was closed by a named third party who was not related to the Account Owner and that the proceeds went toward "Repatriation of the German debt in 1937." The auditors also indicated that the "funds [in the account] may have been transferred to a German bank in connection with the border banks agreement."

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 ten claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name of the company of which their grandfather was co-owner matches the published name of the Account Owner. The Claimants identified the Account Owner's status as a company, despite the fact that it was incorrectly published as an individual on the February 2001 published list of accounts identified by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). Furthermore, the Claimants identified the company's address and owners, which matches unpublished information about the Account Owner contained in the Banks' records. The Claimants identified their grandfather's title, which also matches unpublished information contained in Bank III's records. Furthermore, the Claimants identified that the Albrecht Graf Bernstoff, Gabriel Kropf and Anton Sünkel were the authorized signatories for the Account Owner, which matches unpublished information about the Account Owner contained in Bank III's records. In support of their claims, the Claimants submitted documents, including a company register identifying their grandfather, Dr. [REDACTED], as the head and co-owner of *Bankhaus A.E. Wassermann*, their grandfather's passport, birth and death certificates, and an extract from a book titled *Juden in Bamberg* ("The Jews in Bamberg"), which indicates that *Bankhaus A.E. Wassermann* had its main seat in Bamberg and had a branch in Berlin. These documents provide independent verification that the legal entity that is claimed to be the Account Owner had the same name and was located in the same cities recorded in the Bank's records as the name and locations of the Account Owner. Finally, the Claimants submitted samples of their grandfather's signature, which match the signature sample contained in Bank III's records. The CRT notes that the other claims to these accounts were filed past the deadline for submission of claims and that those late claimants were not direct descendants of any of the individuals who were owners of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named A.E. Wassermann, and indicates that this person was a Jewish banker from Bamberg and Berlin, Germany, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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 a company co-owned by their grandfather, who was Jewish, and that the company was aryanized in 1938. As noted above, a person named A.E. Wassermann was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that their grandfather was one of the owners of the company that held the accounts at the Banks. These documents include a company register dated 1 July 2002 identifying their grandfather, Dr. [REDACTED], as the head and co-owner of *Bankhaus A.E. Wassermann*, their mother's birth certificate identifying her as

[REDACTED], the daughter of [REDACTED] and [REDACTED], and their own birth certificates identifying their mother as [REDACTED].

The Issue of Who Received the Proceeds

With respect to the custody accounts numbered 15820 and 40565, which were held at Bank I, and the custody account numbered F7126 held at Bank III, given that in 1933 Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the owner of the Account Owner remained in Germany until 1940, and would not have been able to repatriate the Account Owner's accounts to Germany without their confiscation; and given the application of Presumptions (a), (f), (h) and (j), as provided in Article 28 of the Rules and Appendix C,³ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, its owners or its owners' heirs.

With respect to the remaining accounts, given that there is no record of the payment of the Account Owner's accounts to its owners or its owners' heirs; that the Account Owner's owners or their heirs would not have been able to obtain information about the Account Owner's accounts after the Second World War 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 and Appendix A, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, its owners, 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was a company co-owned by their grandfather, Dr. Albert Wassermann, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, its owners, nor its owners' heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held four custody accounts 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 with respect to three custody accounts held by the Account Owner at Bank I, numbered 15820,

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

40565 and 8515 Dep. “B,” respectively, and the demand deposit account held by the Account Owner at Bank II, 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 ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of these accounts is SF 41,140.00. 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 an amount of SF 514,250.00.

Bank III’s records indicate that the value of the shares deposited in custody account numbered F7126 at Bank III as of 19 May 1937 was SF 6,500.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 162,500.00.

Consequently, the total award amount in this case is SF 676,750.00.

Division of the Award

According to Article 23(3) of the Rules, in the case that the Account Owner is a legal or other entity, the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. In this case, the Claimants have established that their grandfather was one of the owners of the Account Owner.

According to Article 23(1)(c) of the Rules, if the Account Owner’s spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. The Claimants, who are both grandchildren of [REDACTED], who was one of the owners of *Bankhaus A.E. Wassermann*, are therefore each entitled to one-half of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 18 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
10 September 2004