

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Brigitte Graneau

**in re Accounts of Dr. Paul L. Weil**

Claim Number: 215565/SA

Award Amount: 301,680.00 Swiss Francs

This Certified Award is based upon the claim of Brigitte Graneau, née Weil (the “Claimant”), to the account of Dr. Paul L. Weil (the “Account Owner”) at the [REDACTED] (Bank I”) and the [REDACTED] (Bank II”).

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 her father, Dr. Paul Ludwig Weil, a physician, who was born to Heinrich Weil and Flora Weil, née Neuberger, on 10 September 1894 in Stuttgart, Germany. The Claimant indicated that her father married Emma Wilhelmina Möhrle on 28 February 1931, in Stuttgart, and that they had one child, the Claimant, who was born on 22 October 1932, also in Stuttgart. The Claimant stated that, for two years between the years of 1933 and 1936, Dr. Weil and his family lived in Zurich, Switzerland, where Dr. Weil was associated with the university hospital. After 1936 he returned to Stuttgart, where he resided until 1939, when, in fear of Nazi persecution, he fled to Great Britain. As a German citizen, his father was interned in Great Britain on the Isle of Man for the duration of the Second World War. After the War, from 1945 to 1946, his father worked at a hospital in Manchester, England, and then, from 1947 until his retirement in 1954, he worked at a hospital in Nottingham, England, where he resided until his death on 8 July 1963. Dr. Weil's wife, the Claimant's mother, died in May of 1980.

In support of her claim, the Claimant submitted her birth certificate issued in Stuttgart, Germany, and her father's death certificate issued in Nottingham in 1963 that indicates that her father was Paul Ludwig Weil, a medical doctor from Stuttgart, and that the Claimant's mother's maiden name was Möhrle.

## **Information Available in the Bank Records**

The bank records at Bank I consist of a custody account card and printouts from the Bank's database. According to the account card, the Account Owner was Dr. med. Paul Weil who resided at Hohenheimerstrasse 7, in Stuttgart, Germany. This bank record contains instructions from the Account Owner dated 15 August 1935 directing the Bank to hold all correspondence and to ignore written requests for bank statements unless signed "Dr. Paul Weil-Möhrle" instead of the usual signature of "Dr. Paul Weil," as such requests would probably have been sent under duress. In these instructions the Account Owner refers to a time deposit account with a balance of 10,000.00 Swiss Francs, and a custody account and demand deposit account with unknown values. This bank record does not show when the accounts at issue were closed, the amount in the accounts on the dates of their closure, or to whom they were paid. 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 find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

The bank record at Bank II consists of an account opening card that names the Account Owner as Dr. Paul L. Weil of Berlin, Germany. The bank record indicates that Dr. Paul L. Weil owned a custody account and a demand deposit account, which were closed on 15 June 1933 and 20 May 1933, respectively. This bank record does not show the amounts in the accounts on the dates of their closure, or to whom they were paid.

There is no evidence in the bank records of either Bank I or Bank II 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 has plausibly identified the Account Owner. Her father's name and place of residence match the published name and place of residence of the Account Owner. The Claimant identified her mother's maiden name as Möhrle, which matches the unpublished name of Möhrle contained in the bank records of Bank I to be used by the Account Owner as a safeguard against coercion. The Claimant also identified her father's profession as a medical doctor, which matches unpublished information contained in the bank records. In support of her claim, the Claimant submitted her birth certificate issued in Germany, which gives her mother's maiden name as Möhrle and her father's name as Paul Ludwig Weil, a medical doctor from Stuttgart.

### 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 the Account

Owner fled Germany to avoid Nazi persecution. Moreover, in the bank records the Account Owner himself refers to a specific fear of duress in relation to his accounts.

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that she is his daughter. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

Regarding the custody account and demand deposit account at Bank II, the CRT has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of that account.

Regarding the three accounts at Bank I, namely the time deposit account, the custody account, and the demand deposit account, given the application of Presumptions (h) and (j) contained in Appendix A,<sup>1</sup> 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 Governing the Claims Resolution Process (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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Finally, 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

Regarding the time deposit account, the letter written by the Account Owner to the Bank in 1935 indicates that the value of the time deposit account was 10,000.00 Swiss Francs as of 15 August 1935. The CRT finds that it is plausible that the Account Owner's contemporaneous statement of the value of the time deposit account in his correspondence with the Bank is an accurate reflection of the value of the account at this time.

Regarding the custody account and demand deposit account, pursuant to Article 35 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 present 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 average value of a demand deposit account was 2,140.00 Swiss Francs.

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<sup>1</sup> An expanded version of Appendix A appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

In accordance with Article 37(1) of the Rules, the present value of the amount of the award shall be determined by multiplying by a factor of 12 the known account value or the account value as determined by Article 35. Consequently, the total award amount for the three accounts in this case is 301,680.00 Swiss Francs.

### Initial Payment

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account values for the custody account and the demand deposit account, for which 65% of the respective award amount is 118,092.00 Swiss Francs. This amount, together with 100% of the present value of the time deposit account, produces an initial award amount of 238,092.00 Swiss Francs.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 25 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).

### **Certification of the Award**

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

Claims Resolution Tribunal

November 26, 2002

## APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>3</sup>

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<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999)

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(hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).