

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹

and to the Estate of Claimant [REDACTED 2]²

in re Accounts of Siegbert Weil

Claim Numbers: 004282/DE; 782080/DE³

Original Award Amount: 219,240.00 Swiss Francs

Award Amendment Amount: 114,187.50 Swiss Francs

This Certified Award Amendment is based upon the claim of Dr. [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Sally (Salomon) Weil,⁴ and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to account of Siegbert Weil. This Award Amendment is to the unpublished accounts of Siegbert Weil at the Diessenhofen branch of the [REDACTED] (the “Bank”).

All award amendments 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.

Procedural History

On 3 October 2002, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner’s six accounts (the “October 2002 Award”). In this Award Amendment, the CRT adopts

¹ On 3 October 2002, the Court approved an award to Dr. [REDACTED 1] (“Claimant [REDACTED 1]”) for the account of Siegbert Weil (the “October 2002 Award”), which is the subject of this Award Amendment.

² The CRT notes that publicly-available records indicate that Claimant [REDACTED 2] passed away on 28 June 2002. See <http://ssdi.rootsweb.ancestry.com>.

³ Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0472 068, 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 782080.

⁴ In a separate decision, the CRT treated Claimant [REDACTED 1]’s claim to the account of Sally (Salomon) Weil. See *In re Account of Sally Weil, S. Weil Jun., Salomon Weil, and Ida Weil* (approved on 20 October 2006).

and amends its findings to address the entitlement of Claimant [REDACTED 2]. The CRT notes that although Claimant [REDACTED 2] had filed a timely claim to the awarded account, her claim was not available for consideration in the October 2002 Award. Subsequent review of Claimant [REDACTED 2]'s claim indicates that she is entitled to share in the original award amount, as detailed below.

The October 2002 Award

In the October 2002 Award, the CRT determined that the Account Owner owned three demand deposit accounts and three accounts of unknown type. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owner, that she plausibly demonstrated that she was related to the Account Owner, and that the Account Owner was a Victim of Nazi Persecution, and that it was plausible that the Account Owner did not receive the proceeds of these six accounts. The CRT noted that the Bank's records did not indicate the value of the accounts, and therefore presumed that the value of each demand deposit account was 2,140.00 Swiss Francs ("SF") of and average value of each account of unknown type was SF 3,950.00, and that the October 2002 Award amount was SF 219,240.00. Finally, the CRT determined that Claimant [REDACTED 1] was entitled to the entire award amount.

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her father, Siegbert Weil. Claimant [REDACTED 1] stated that her father's family originated in Gailingen, Germany, where both her great-grandfather and grandfather were born, and that in approximately 1907, her grandfather moved to Wurzburg, Germany, where he owned a clothing store. Claimant [REDACTED 1] stated that in 1934, her father emigrated to Palestine, where he married the Claimant's mother in 1935. Claimant [REDACTED 1] explained that her father served in the British army until 13 June 1941, when he died in an Italian air raid. Claimant [REDACTED 1] stated that she was born on 25 August 1936, in Tel Aviv, Palestine.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire ("IQ") identifying the Account Owner as her paternal uncle, Siegbert Weil. Claimant [REDACTED 2] stated that her uncle, who was Jewish, was born on 2 December 1897 and resided in Gailingen, Germany before fleeing to Amsterdam, the Netherlands in February 1937. According to Claimant [REDACTED 2], her uncle resided in Amsterdam until July 1943, when he was deported to Westerbork transit camp in the Netherlands. Claimant [REDACTED 2] explained that her uncle was subsequently deported to the concentration camp Bergen Belsen on 15 February 1944, and remained there until January 1945, when he was transferred to a displaced persons' camp in Algeria.

Claimant [REDACTED 2] stated that Siegbert Weil had relatives living in Switzerland, and that ultimately Siegbert Weil emigrated to the United States after the Second World War. Claimant

[REDACTED 2] stated that Siegbert Weil passed away in New York, New York on 16 August 1966.

In support of her claim, Claimant [REDACTED 2] submitted a signed affidavit written by her uncle Siegbert Weil, which was addressed to the State Department of the United States in support of his emigration application. The affidavit was signed and sworn in Algiers, Algeria on 12 October 1945. In his affidavit, Siegbert Weil stated that he was Jewish, that he was born on 2 December 1897 in Gailingen, and resided in Berlin, Germany directly before fleeing to Amsterdam on 15 December 1936. The document indicates that on 7 April 1937, Siegbert Weil married his wife [REDACTED] in Amsterdam.

In his affidavit, Siegbert Weil further explained that in the Netherlands, he established his own business as a representative of a number of companies, including two Swiss companies. He also indicated that following the Nazi occupation of the Netherlands, Nazi officials aryanized his business and seized the proceeds of the business. According to this document, Siegbert Weil was briefly arrested by the Nazis in February 1943 and then released, and after this incident, his relatives in Switzerland sent him a Paraguayan passport in an attempt to protect him. He also explained that he spent significant periods of time in hiding in 1943 and early 1944 in an attempt to avoid further arrest by the Nazis. The document indicates that in July 1943, Siegbert Weil and his wife and mother-in-law were nevertheless deported to Westerbork, a transit camp in the Netherlands, and subsequently, on 15 February 1944, they were deported to the concentration camp Bergen Belsen in Germany, where Siegbert Weil's mother-in-law perished. In his affidavit, Siegbert Weil further indicated that in January 1945, on the basis of his Paraguayan passport, he and his wife [REDACTED] took part in a prisoner exchange, and were sent to a displaced persons' camp in Philippeville, Algeria.

According to the affidavit, Siegbert Weil had a brother residing in the United States, and he consequently wished to emigrate to the United States. The affidavit indicates that many of Siegbert Weil's family members perished in the Holocaust.

Claimant [REDACTED 2] indicated that she was born on in 30 April 1945. The CRT notes that publicly-available information indicates that Claimant [REDACTED 2] passed away on 28 June 2002.

Information Available in the Bank's Records

As detailed in the October 2002 Award, the Bank's records indicate that Siegbert Weil of Gailingen, Germany held three demand deposit accounts and three accounts of unknown type. The records do not indicate the values of these accounts.

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. There is no evidence in the Bank's

records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

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.

Claimant [REDACTED 2]'s Identification of the Account Owner

Claimant [REDACTED 2]'s paternal uncle's name and one of his cities and countries of residence match the unpublished name and city and country of residence of the Account Owner.

In support of her claim, the Claimant submitted a sworn affidavit written by Siegbert Weil, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT further notes that the relative of Claimant [REDACTED 1] and the relative of Claimant [REDACTED 2] are not the same person. However, given that the Claimants have identified all unpublished information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he fled Germany for the Netherlands in 1936, that the Nazis confiscated his assets in both Germany and the Netherlands, that he was arrested briefly in April 1943, that he was forced into hiding for lengthy periods in 1943 and early 1944, that he was deported to Westerbork transit camp in July 1943, and was deported to Bergen Belsen concentration camp in February 1944.

Claimant [REDACTED 2]'s Relationship to the Account Owner

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was her paternal uncle.

The CRT further notes that Claimant [REDACTED 2] identified unpublished information about the Account Owner as contained in the Bank's records, and that Claimant [REDACTED 2] submitted a copy of the Account Owner's signed affidavit submitted to the United States State Department. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. 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 Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

As detailed in the October 2002 Award, the CRT has concluded that it is plausible that the account proceeds were not paid to the Account Owner or his heirs.

Amount of the October 2002 Award

As detailed in the October 2002 Award, the Account Owner held three demand deposit accounts and three accounts of unknown type. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case with the six accounts 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 upon the ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00 and the average value of an account of unknown type was SF 3,950.00. Thus, the total average historical value of the six accounts at issue in the October 2002 Award was SF 18,270.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the October 2002 Award, the adjustment factor was 12, and the resulting award amount was SF 219,240.00. Since the October 2002 Award, the adjustment factor has been raised to 12.5.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2]. First, Claimant [REDACTED 2]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that she is the Account Owner's niece, and that relationship justifies an Award. Third, the CRT determined in the October 2002 Award that it was plausible that neither the Account Owner nor his heirs received the proceeds of the accounts.

New Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the

account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half of the Award amount.

The CRT notes that in the October 2002 Award, Claimant [REDACTED 1] was awarded the full award amount, and that she is now determined to be entitled to only one-half of the award amount. Recognizing that more than seven years have passed since the October 2002 Award, and that there is no indication that Claimant [REDACTED 1] was aware that other equally entitled persons had filed a claim, the CRT does not seek outright repayment of the overpayment from Claimant [REDACTED 1]. However, the amount of overpayment shall be deducted from any award adjustment that may be forthcoming to Claimant [REDACTED 1].

Amount and Division of the Award Amendment

As detailed above and in the October 2002 Award, the 1945 value of the accounts at issue was determined to be SF 18,270.00. Claimant [REDACTED 2] is entitled to one-half of this amount, or SF 9,135.00. 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 Amendment amount of SF 114,187.50. As detailed above, Claimant [REDACTED 2] is entitled to the entire award amendment amount.

Certification of the Award Amendment

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

Claims Resolution Tribunal
16 April 2010