

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED] and [REDACTED]

in re Accounts of Alice Weiss, Ernst Weiss, and Oskar Weiss

Claim Number: 501407/AV¹

Award Amount: 498,202.75 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Alice Weiss and Oskar Weiss. This Award is to the published account of Alice Weiss (“Account Owner Alice Weiss”), over which Ernst Weiss (“Account Owner Ernst Weiss”) and Oskar Weiss (“Account Owner Oskar Weiss”) (together the “Account Owners”) held power of attorney, the published account of Account Owner Ernst Weiss, over which Account Owner Oskar Weiss held power of attorney, and the published account of Account Owner Oskar Weiss, over which Account Owner Ernst Weiss held power of attorney, all at the Zurich branch of the [REDACTED] (the “Bank”), and to an unpublished account of Account Owner Alice Weiss and an unpublished account of Account Owner Oskar Weiss, both at the London branch of the Bank.²

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 owners, and the banks have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Alice Weiss as her paternal grandmother’s aunt, Alice Weiss, née Ortlieb, who was born to [REDACTED] and [REDACTED], née [REDACTED], on 25 June 1881 or 1882 in Munich, Germany, and was married to [REDACTED]. The Claimant further identified Account Owner Ernst Weiss and

¹ The Claimant submitted additional claims to the accounts of Friedrich Regenstreif, Louis Ortlieb, Ellen Rose Illich, Auguste Aufhäuser, and Piero Illic, which are registered under the Claim Numbers 501364, 501373, 501382, 501392, and 501398, respectively. The CRT will treat the claims to these accounts in a separate decision.

² The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Alice Weiss appears twice. Furthermore, in this claim, the Claimant also claimed the account of A. Weiss, whose name appears on the List of Account Owners Published in 2005 (the “2005 List”). The CRT will treat the claims to these accounts in separate determinations.

Account Owner Oskar Weiss as Ernst Sigmund Weiss and Oskar Ewald Weiss, respectively, and indicated that they were Alice Weiss's sons. The Claimant further indicated that Oskar Weiss was born on 16 February 1906 in Vienna, Austria. According to the Claimant, Alice Weiss, who was Jewish, lived at Brahmsplatz 7 in Vienna, and she may also have lived on Mayerhofgasse in Vienna and Maximiliansplatz in Munich. The Claimant stated that Alice Weiss was a partner in *Vereinigte Münchener Eiswerke Ortlieb & Edenhofer*, which was a family-owned real estate holding company in Munich. The Claimant explained that after the Nazis came to power in Germany, Alice Weiss was forced to sell large tracts of property owned by this company. According to information provided by the Claimant, Alice Weiss fled to Brussels, Belgium in 1941, and she died there on 19 July 1943. The Claimant further indicated that Oskar Weiss fled from Vienna to Prague, Czechoslovakia (today the Czech Republic) in June 1938, and that he and Ernst Weiss fled to England in April 1939. The Claimant indicated that Oskar Weiss and Ernst Weiss both died in England.

The Claimant submitted several documents in support of her claim, including an SS report on wealthy and influential Jews in Vienna, which includes the name of Alice Weiss, and indicates that she lived at Brahmsplatz 7 in Vienna and that her assets were valued at 1,454,000.00 Reichsmark ("RM"). The Claimant further submitted a letter addressed to the Chief Finance Minister (*Oberfinanzpräsident*) for the city of Munich, indicating that the assets of Alice Weiss had been seized by the German government on 4 April 1941.

In addition, the Claimant submitted documents concerning her family's claims for restitution relating to forced sales of real estate owned by *Vereinigte Münchener Eiswerke Ortlieb & Edenhofer* by the Nazi government. According to these documents, Alice Weiss, née Ortlieb, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED], were partners in the company and the heirs of the original owner. The documents further indicate that *Vereinigte Münchener Eiswerke Ortlieb & Edenhofer* owned many properties throughout Munich, and that several of these properties, including the *Grünwaldpark*, a large park in Munich, were sold to the city under pressure from the Nazi authorities. The documents also include affidavits from acquaintances of the Weiss family, stating that Dr. Ernst Weiss and Oskar Weiss lived at Brahmstrasse 7 in Vienna; that Alice Weiss was prohibited from accessing her assets without written consent from the Gestapo as of 12 May 1938; that Oskar Weiss fled from Vienna to Prague, Czechoslovakia (today the Czech Republic) in June 1938; that Oskar Weiss, while in Prague, paid Nazi authorities to ensure the safety of his mother and brother in Vienna; that Oskar Weiss and Ernst Weiss fled to England in April 1939; and that in 1941, Alice Weiss fled to Belgium, where she died impoverished in 1943.

The Claimant further submitted her birth certificate, indicating that her father is [REDACTED]; the Claimant's father's birth certificate, indicating that the Claimant's grandmother was [REDACTED], née [REDACTED]; and the Claimant's grandmother's birth certificate, indicating the Claimant's great-grandmother was [REDACTED], née [REDACTED].

The Claimant indicated that she was born on 27 May 1957 in New York, New York, the United States. The Claimant is representing her father, [REDACTED], and her paternal uncle, [REDACTED], who were both born on 30 November 1928 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of three power of attorney forms and printouts from the Bank's database. According to these records, Account Owner Alice Weiss was *Frau* (Mrs.) Alice Weiss, Account Owner Ernst Weiss was Dr. Ernst Weiss, and Account Owner Oskar Weiss was Oskar Weiss, who all resided at Brahmsplatz 7 in Vienna, Austria. In addition, the Bank's records indicate that Account Owner Ernst Weiss and Account Owner Oskar Weiss were brothers.

The Bank's records indicate that Account Owner Alice Weiss held one account, the type of which is not indicated, over which Account Owner Ernst Weiss and Account Owner Oskar Weiss held power of attorney, and which was closed on 12 July 1938. The Bank's records further indicate that Account Owner Ernst Weiss also held an account, the type of which is not indicated, over which Account Owner Oskar Weiss held power of attorney, and which was closed on 12 July 1938. Finally, the Bank's records indicate that Account Owner Oskar Weiss held an account, the type of which is not indicated, over which Account Owner Ernst Weiss held power of attorney, and which was closed on 11 August 1938.

The Bank's records do not indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Alice Weiss, Ernst Weiss, and Oskar Weiss.

Alice Weiss

The file concerning the assets of Alice Weiss, numbered 15036, indicates that she was born on 25 June 1881, that she lived at Brahmsplatz 7 in Vienna, and that she had two sons, Dr. Ernst Weiss and Oskar Weiss. According to these records, Alice Weiss owned a one-quarter share of a house in St. Wolfgang, Austria, valued at RM 50,000.00. These records further indicate that Alice Weiss owned shares in two businesses, including a one-sixth share of *Färberei & Appretur Carl Zapperts Söhne*, valued at 107,895.51 Austrian Schillings ("ATS"). The records indicate that Dr. Ernst Weiss and Oskar Weiss also owned shares of this business, that Alice Weiss was entitled to the profits generated by her sons' shares during her lifetime, and that these profits were valued at ATS 53,947.76. In addition, the records indicate that Alice Weiss owned a 4/21 share of *Vereinigte Münchener Eiswerke, Ortlieb & Edenhofer i.L.*, valued at RM 107,263.52. The records further indicate that Alice Weiss owned securities valued at RM 372,744.00, held at German and Austrian banks, as well as other bank accounts valued at RM 35,070.00. In

addition, the records indicate that Alice Weiss was assessed flight tax (*Reichsfluchtsteuer*) in the amount of RM 182,279.00 on 14 January 1939, and that this figure was adjusted to RM 153,229.00 on 25 June 1939.

Furthermore, these records indicate that Alice Weiss held a demand deposit account at the Zurich branch of the Bank, which had a balance of 6,316.75 Swiss Francs (“SF”) as of 27 April 1938, and a demand deposit account at the London branch of the Bank, which had a balance of 455.68 Pounds Sterling (“£”) as of 27 April 1938. In addition, these records indicate that Alice Weiss held an account at the London branch of the Bank, the type of which is not indicated, which contained gold coins valued at £ 600.0.0 as of 27 April 1938.³ The records contain no further information regarding the subsequent disposition of these accounts.

Ernst Weiss

The file concerning the assets of Dr. Ernst Weiss, numbered 18680, indicates that he was born on 28 January 1905 in Vienna, that he was a business owner, that he lived at Brahmsplatz 7 in Vienna, and that he was married to [REDACTED], née [REDACTED]. According to these records, Ernst Weiss owned a share in *Firma Carl Zapperts Söhne* valued at RM 56,519.10, securities held in German and Austrian banks valued at RM 49,163.00, other bank accounts valued at RM 3,081.00, and precious metals and other valuables valued at RM 3,752.00. In addition, the records indicate that Ernst Weiss was assessed flight tax of RM 24,531.00 on 12 November 1938. The records further indicate that the Nazi government seized all assets of Ernst Weiss and [REDACTED] on 18 September 1941. These records make no mention of assets held in a Swiss bank account.

Oskar Weiss

The files concerning Oskar Weiss, numbered 63251 and 64644, indicate that Oskar Weiss had resided at Brahmsplatz 7 in Vienna, that he moved to Prague sometime before November 1938, and that he submitted a 1938 Census report to the authorities in Berlin. The records further indicate that Oskar Weiss paid flight tax of RM 30,751.00 on some date before 7 March 1939.

Information Available from the German Archives

In the records of the regional revenue office in Berlin (“*Oberfinanzdirektion Berlin*”) (“OFD Berlin”), there are documents concerning the assets of Oskar Weiss, numbered 937/5071. According to these records, Oskar Weiss was born on 16 February 1906 and resided in Orlice bei Kysperk, Czechoslovakia (today the Czech Republic). These records indicate that Oskar Weiss owned a share in *Firma Carl Zapperts Söhne* valued at RM 54,250.60 securities valued at RM 49,163.00, held at *Bankhaus H. Aufhäuser* in Munich, Germany, and at the *Hermesbank* in Vienna, and other bank accounts valued at RM 3,292.00. These records further indicate that

³ The CRT notes that the 1938 Census report submitted by Alice Weiss indicates that this account of unknown type was held at “Swiss Bank London.” Given that Alice Weiss held a demand deposit account at the London branch of the Bank, the CRT concludes that “Swiss Bank London” refers to the London branch of the Bank.

Oskar Weiss was assessed atonement tax (*Judenvermögensabgabe*) of RM 5,600.00 on 17 March 1939.

Furthermore, these records indicate that Oskar Weiss held a demand deposit account at the Bank, which had a value of SF 3,087.00 as of 27 April 1938. These records further indicate that Oskar Weiss held an account at the London branch of the Bank, the type of which is not indicated, which contained gold coins valued at £ 160.0.0 as of 27 April 1938.⁴ The records contain no further information regarding the subsequent disposition of these accounts.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's great-grand aunt's name and city and country of residence match the published name and city and country of residence of Account Owner Alice Weiss. Moreover, the names of the Claimant's cousins match the published names of Account Owner Ernst Weiss and Account Owner Oskar Weiss. The Claimant identified Account Owner Alice Weiss's street address, and specified that Account Owner Ernst Weiss and Account Owner Oskar Weiss were brothers, which matches unpublished information about the Account Owners contained in the Bank's records. Moreover, the Claimant identified Account Owner Alice Weiss's maiden name, spouse's name, and date of birth, and indicated that Account Owner Ernst Weiss and Account Owner Oskar Weiss were the sons of Account Owner Alice Weiss, and that Account Owner Alice Weiss owned a share of *Vereinigte Münchener Eiswerke Ortlieb & Edenhofer*, all of which matches information found in the 1938 Census report submitted by Alice Weiss.

In support of her claim, the Claimant submitted documents, including an SS report on wealthy and influential Jews in Vienna and affidavits from acquaintances of the Weiss family, providing independent verification that the persons who are claimed to be the Account Owners had the same names and lived at the same address recorded in the Bank's records as the names and address of the Account Owners, and that the person who is claimed to be Account Owner Ernst Weiss used the same professional title recorded in the Bank's records as the professional title of Account Owner Ernst Weiss. The CRT notes that the other claims to the accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of 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 that Account Owner Alice Weiss was forced by Nazi authorities to sell large tracts of property owned by her family's real estate holding company. In addition, the Claimant submitted affidavits from

⁴ The CRT Swiss Bank London." Given that Oskar Weiss's mother, Alice Weiss, held accounts at the London branch of the Bank, the CRT notes that the 1938 Census report submitted by Oskar Weiss indicates that this account of unknown type was held at "concludes that "Swiss Bank London" refers to the London branch of the Bank.

acquaintances of the Weiss family indicating that Account Owner Alice Weiss was prohibited from accessing her assets without written consent from the Gestapo as of 12 May 1938; that Account Owner Oskar Weiss fled from Vienna to Prague, Bohemia, in June 1938; that Account Owner Oskar Weiss, while in Prague, paid Nazi authorities to ensure the safety of his mother and brother in Vienna; that Account Owner Oskar Weiss and Account Owner Ernst Weiss fled to England in April 1939; and that Account Owner Alice Weiss fled to Belgium in 1941. The Claimant further submitted a letter from Nazi officials, indicating that the German government seized all assets of Alice Weiss on 4 April 1941. The CRT notes that the Account Owners were required to register their assets, and that records in the 1938 Census file belonging to Account Owner Ernst Weiss indicate that the German government seized all his assets on 18 September 1941.

The Claimant's Relationships 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 Account Owner Alice Weiss was the Claimant's great-grandaunt, and that Account Owner Ernst Weiss and Account Owner Oskar Weiss were the Claimant's cousins. These documents include the birth certificates of the Claimant, the Claimant's father, and the Claimant's grandmother, and documents relating to *Vereinigte Münchener Eiswerke, Ortlieb & Edenhofer*, indicating that the Claimant's great-grandmother was [REDACTED], née [REDACTED], and that she was related to Account Owner Alice Weiss. The Claimant further submitted affidavits from acquaintances of the Weiss family indicating that Account Owner Ernst Weiss and Account Owner Oskar Weiss were the sons of Account Owner Alice Weiss.

The Issue of Who Received the Proceeds

The CRT notes that the 1938 Census declaration submitted by Alice Weiss indicates that she owned a demand deposit account at the Zurich branch of the Bank. Given that the Bank's records indicate that Account Owner Alice Weiss held an account at the Zurich branch of the Bank, and that the closing date specified in the Bank's records for the account was 12 July 1938, the CRT determines that the account at the Bank referred to in the 1938 Census report submitted by Alice Weiss is the same account as the account of unknown type evidenced by the Bank's records. Moreover, the CRT notes that the 1938 Census report submitted by Oskar Weiss indicates that he owned a demand deposit account at the Bank. Given that the Bank's records indicate that Account Owner Oskar Weiss held an account at the Bank, and that the closing date specified in the Bank's records for the account was 11 August 1938, the CRT determines that the account at the Bank referred to in the 1938 Census report submitted by Oskar Weiss is the same account as the account of unknown type evidenced by the Bank's records.

With respect to the account of unknown type held by Account Owner Ernst Weiss and the demand deposit account held by Account Owner Alice Weiss at the Zurich branch of the Bank, given that the accounts were closed on 12 July 1938, after the incorporation of Austria into the German Reich in March 1938 (the "*Anschluss*"); that Account Owner Alice Weiss fled from Austria to Belgium in 1941, that Account Owner Ernst Weiss fled from Austria to England in April 1939; that there is no record of the payment of the accounts of Account Owner Alice Weiss

and Account Owner Ernst Weiss to them; that Account Owner Alice Weiss and Account Owner Ernst Weiss and their heirs would not have been able to obtain information about their 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), (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 Account Owner Alice Weiss, Account Owner Ernst Weiss, or their heirs.

With respect to the demand deposit account held by Account Owner Oskar Weiss, the CRT notes that the Bank's records indicate that the account was closed on 11 August 1938, at which time, according to information contained in the records of the Austrian State Archive, Account Owner Oskar Weiss was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that Account Owner Oskar Weiss fled his country of origin due to Nazi persecution, that Account Owner Oskar Weiss had relatives remaining in his country of origin, that affidavits from acquaintances of Account Owner Oskar Weiss's family indicate that he yielded to Nazi pressure to turn over assets to ensure his relatives' safety, and may therefore have turned over this account to ensure their safety; that Account Owner Oskar Weiss and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (h) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Oskar Weiss or his heirs.

With respect to the demand deposit account and the account of unknown type held by Account Owner Alice Weiss at the London branch of the Bank, and the account of unknown type held by Account Owner Oskar Weiss at the Bank, the facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that Account Owner Alice Weiss and Account Owner Oskar Weiss reported the accounts in the 1938 Census; that Account Owner Alice Weiss lived in Austria until she fled to Brussels, and that Account Owner Oskar Weiss lived in Austria and Czechoslovakia until he fled to England, and therefore they could not have repatriated the accounts without losing ultimate control over their proceeds; and given the application of Presumptions (d) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Alice Weiss, Account Owner Oskar Weiss, 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 Account Owner Alice Weiss was her great-grandaunt, and that Account Owner Ernst Weiss and Account Owner Oskar Weiss were her cousins, 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.

Further, the CRT notes that [REDACTED] and [REDACTED], whom the Claimant is representing, as the great-grandsons of Account Owner Alice Weiss's parents, have a better entitlement to the accounts than the Claimant, the great-great-granddaughter of Account Owner Alice Weiss's parents.

Amount of the Award

In this case, Account Owner Ernst Weiss held one account of unknown type, Account Owner Alice Weiss held two demand deposit accounts and one account of unknown type, and Account Owner Oskar Weiss held one demand deposit account and one account of unknown type.

As for the account held by Account Owner Ernst Weiss, the Bank's records do not indicate its value. 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), the average value of an account of unknown type was SF 3,950.00. 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 award amount of SF 49,375.00 for this account.

As for the accounts held by Account Owner Alice Weiss, the 1938 Census records indicate that as of 27 April 1938 the balance of the demand deposit account at the Zurich branch of the Bank was SF 6,316.75; that the balance of the demand deposit account at the London branch of the Bank was £ 455.6.8, which was equivalent to SF 9,730.47;⁵ and that the value of the account of unknown type was £ 600.0.0, which was equivalent to SF 12,822.00. Thus, the total value of the assets held by Account Owner Alice Weiss at the Bank was SF 28,869.22. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount is SF 360,865.25 for these three accounts.

With regard to the accounts held by Account Owner Oskar Weiss, the 1938 Census records indicate that as of 27 April 1938 the balance of the demand deposit account was SF 3,087.00, and that the value of the account of unknown type was £ 160.0.0, which was equivalent to SF 3,419.20. With respect to Account Owner Oskar Weiss's account of unknown type, according to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00,

⁵ The CRT uses official exchange rates when converting the amounts in foreign currencies into Swiss Francs.

and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. Thus, the basis for the Award shall be a total of SF 7,037.00. 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 award amount of SF 87,962.50 for these two accounts.

Consequently, the total award amount is SF 498,202.75.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the account owner's spouse nor any descendants of the account owner have submitted a claim, the award shall be in favor of any descendants of the account owner's parents who have submitted a claim, in equal shares by representation. In addition, according to Article 23(1)(e) of the Rules, if neither the account owner's spouse nor any descendants of the account owner's parents have submitted a claim, the award shall be in favor of any descendants of the account owner's grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing [REDACTED] and [REDACTED], who are the descendants of the parents of Account Owner Alice Weiss and of the grandparents of Account Owner Ernst Weiss and Account Owner Oskar Weiss. Accordingly, [REDACTED] and [REDACTED] are each entitled to one-half of the total award amount.

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).

Certification of the Award

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

Claims Resolution Tribunal
7 June 2006