

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3]
and [REDACTED 4]

in re Accounts of Emil Weiss

Claim Number: 784166/AK¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the unpublished accounts of Emil Weiss (the “Account Owner”), over which [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of [REDACTED] (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”) identifying the Account Owner as his maternal uncle by marriage, Emil Weiss (also known as Samuel Weiss and Milo Weiss), who was Jewish and was born on 16 July 1899 in Schodnica, Poland, and was married to [REDACTED], who was Jewish, on 8 March 1938 in Vienna, Austria. The Claimant stated that his uncle and aunt lived in Vienna, Austria and that his uncle worked at the Vienna Stock Exchange. The Claimant stated that the couple fled Austria towards the end of 1938 and that they escaped via Switzerland to France where they resided at 118 Blvd. Hausmann in Paris. According to the Claimant, his uncle and aunt moved to Portugal in 1940 and eventually fled to the United States. The Claimant stated that Emil Weiss became a citizen of the United States in 1946 and that he died in Zurich, Switzerland on 29 April 1952. The Claimant also stated that

¹ [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0558028, 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 784166.

[REDACTED] married [REDACTED] in New York, New York on 2 November 1957 and that she died on 19 November 1992 in New York, New York.

The Claimant submitted the following documents in support of his claim:

- 1) Emil and [REDACTED] Weiss' birth certificates;
- 2) a certificate issued by the municipality of Schodnica, Poland, dated 14 February 1938, stating that Emil Weiss, born on 16 July 1899 in Schodnica, was also known as Samuel Weiss;
- 3) an acknowledgment from the Vienna Stock Exchange dated 28 April 1938, indicating that Emil Samuel Weiss worked for the Vienna Stock Exchange from 1921 to 1937;
- 4) his uncle and aunt's marriage certificate, showing that Samuel Weiss married [REDACTED] in Vienna, Austria on 29 April 1938;
- 5) a letter from the Polish Consulate in Paris, dated 21 December 1938, addressed to Samuel Weiss at 118 Blvd. Hausmann in Paris;
- 6) a certificate issued by the police chief of Baule, France, showing that Samuel Emile Weiss was registered there on 26 September 1939;
- 7) a certificate of residence dated 13 November 1939, showing that [REDACTED] resided at 118 Blvd. Hausmann in Paris, France;
- 8) a certificate issued by the New York Air Warden Service dated 30 March 1944, indicating that Emil Weiss became an active member of the Air Warden Service in August 1942;
- 9) the death certificate of Emil Samuel Weiss, confirming that he died in Zurich on 29 April 1952;
- 10) Emil Weiss' last will and testament dated 22 April 1948, bearing his signature, in which he bequeathed his assets to his wife [REDACTED], his sisters [REDACTED] and [REDACTED], and his daughter [REDACTED];
- 11) the death certificate of [REDACTED], née [REDACTED], indicating that she died in New York, New York on 19 May 1992, and
- 12) the last will and testament of [REDACTED], dated 13 May 1992, showing that [REDACTED] was also known as [REDACTED], that she bequeathed her residuary estate to her sister, [REDACTED 2], and her sister's sons, [REDACTED 4], and the Claimant, *per stirpes*, and in which she made a specific gift of 10,000.00 United States Dollars ("US \$") to the Claimant's father, [REDACTED 3].

The Claimant stated that he was born on 20 May 1944 in the United States. The Claimant is representing his mother, [REDACTED 2], his father [REDACTED 3], and his brother, [REDACTED 4].

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form signed in Paris in 1938 and a printout from the Bank's database. According to these records, the Account Owner was Emil Weiss, who resided at 118 Boulevard Hausmann in Paris, France, and the Power of Attorney Holder was

[REDACTED]. The Bank's records indicate that the Account Owner held a custody account and a demand deposit account.

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, the Power of Attorney Holder 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 Emil Weiss, numbered 7726. These documents indicate that Emil Weiss, a Polish national born on 16 July 1899, was married to [REDACTED], née [REDACTED], who was Jewish. These documents, signed by Emil Weiss and dated 15 July 1938, show that he resided at Weyringergasse 31/7 in IV Vienna, Austria. Moreover, these records show that Emil Weiss was a stockbroker ("*Remissier*"). The records further indicate that Emil Weiss owned securities worth approximately 5,000.00 Reichsmark ("RM") and savings and bank assets worth approximately RM 3,000.00. The records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's uncle's name and city and country of residence match the published name and the unpublished city and country of residence of the Account Owner. The Claimant's aunt's name and her city and country of residence match the unpublished name and the unpublished city and country of residence of the Power of Attorney Holder. The Claimant identified the Account Owner's street address, which matches unpublished information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted documents, including Emil Weiss' birth and death certificates, [REDACTED]'s marriage certificate; a letter from the Polish Consulate in Paris, dated 21 December 1938, addressed to Samuel Weiss at 118 Blvd. Hausmann in Paris; a certificate of residence indicating that [REDACTED] resided at 118 Blvd. Hausmann in Paris; and Emil Weiss' last will and testament, providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names and resided at the same address recorded in the Bank's records as the names and address of the Account Owner and the Power of

Attorney Holder. The Claimant also submitted a sample of his uncle's signature, which matches the Account Owner's signature contained in the Bank's records.

The CRT notes that other claims to these accounts were disconfirmed because these claimants provided a different city or country of residence than the city or country of residence of the Account Owner.

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 and his wife, the Power of Attorney Holder, were Jewish, and that they fled Austria to France, then to Portugal and the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's uncle. These documents include Emil Weiss' last will and testament, identifying his wife as [REDACTED], and [REDACTED]'s last will and testament, stating that the Claimant is her nephew.

The CRT notes that the Account Owner's last will and testament indicates that the Account Owner had two sisters and a daughter, who were beneficiaries under his will. The CRT further notes that it has not received a claim from these individuals.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Austria to France, and subsequently to Portugal and the United States; that there is no record of the payment of the Account Owners' accounts to him nor any record of a date of closure of the accounts; that the Account Owner and his heirs would not have been able to obtain information about his 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 (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 the Account Owner, the Power of Attorney Holder, 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 relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account

Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account 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, 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 13,000.00 Swiss Francs (“SF”) and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. 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 a total award amount of SF 189,250.00.

Division of the Award

According to Article 23(2)(b) of the Rules, if a claimant has submitted the Account Owner’s will but none of the named beneficiaries has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner.

In this case, the Claimant is representing his mother, [REDACTED 2], his father, [REDACTED 3], and his brother, [REDACTED 4]. The Claimant submitted the Account Owner’s will, showing that his estate was to be divided between his wife, his sisters and his daughter, and the will of the Account Owner’s wife, indicating that the residue of her estate was to be divided *per stirpes* between her sister, [REDACTED 2], the Claimant, and his brother, [REDACTED 4], and in which she made a specific bequest of US \$ 10,000.00 to the Claimant’s father, [REDACTED 3]. As such, the Claimant, his mother and his brother, have a better entitlement to the account than the Claimant’s father. Accordingly, the Claimant, [REDACTED 2], and [REDACTED 4] are each entitled to one-third 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 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).

Certification of the Award

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

Claims Resolution Tribunal
30 December 2004