

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Emil Weiss

Claim Number: 753700/RS¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Emil Weiss (the “Account Owner”), over which Steffy Weiss (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (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 owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted an ATAG Ernst & Young claim form identifying the Account Owner as her father, Emil H. Weiss, who was born on 15 June 1886, and who was married to Stephanie Weiss, née Bartussek. According to the Claimant, her father, who was Jewish, was the director of a textile company. The Claimant indicated that prior to and during the Second World War, her family resided at Lilienbrunnngasse 21/8 in Vienna, Austria, and that they later resided at 72 Belsize Park Gardens in London, England. The Claimant stated that her father died on 5 June 1958 in London.

¹ The Claimant did not submit a CRT Claim Form. However, in 1997 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-SDY-A-70-904-082-701, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 753700.

² The CRT notes that on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Emil Weiss appears twice. Upon careful review, the CRT has determined that the second Emil Weiss is not the same person addressed in this decision and, consequently, the Claimant did not identify this other account owner as her relative.

In support of her claim, the Claimant submitted copies of documents, including: (1) her father's birth certificate, indicating that Emil Weiss was born on 15 June 1886;³ (2) her father's death certificate, indicating that Emil Weiss died on 5 June 1958 at the age of 71, and that he had a daughter named [REDACTED]; and (3) her own birth certificate, issued by the Jewish Community of Vienna, indicating that [REDACTED] was born on 3 May 1931 in Vienna, and that her parents were Emil Weiss and Stephanie Bartussek.

The Claimant indicated that she was born on 3 May 1931 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a power of attorney form. According to this record, the Account Owner was Emil Weiss, who resided at Lilienbrunnngasse 21 in Vienna, Austria, and the Power of Attorney Holder was Steffy Weiss. The Bank's record indicates that the Account Owner held a demand deposit account, which was opened on 7 August 1931.

The Bank's record indicates that the account was closed on 28 February 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner, the Power of Attorney Holder or their heirs closed the account 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, 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 20610. These records indicate that Emil Weiss was born on 15 June 1886 and that he lived at Lilienbrunnngasse 21/8 in Vienna. In addition, the records indicate that Emil Weiss was married to Stefanie Weiss, née Bartussek, and that he was a businessman (*Kaufmann*). The records also contain a letter dated 29 December 1938 in Vienna from Emil Weiss to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*), in which Emil Weiss updated the values of some of his assets. The records indicate that Emil Weiss owned a one-third share, valued at 17,567.30 Reichsmark ("RM"), of the business *Gebrüder Weiss*, which was located at Franz Josefskai 47, and that he owned one-third of a business property located at Leopoldsgasse 51 in Vienna, which also contained living quarters (*Wohnhaus, im Betriebsvermögen inbegriffen*). The records indicate that as of 14 July 1938, Emil Weiss held RM 3600.00 in cash, savings, or bank assets. The records make no mention of assets held in a Swiss bank account.

³ Unfortunately, the copy of the Claimant's father's birth certificate provided by the Claimant is illegible but for his name and date of birth.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name and city and country of residence match the published name and city and country of residence of the Account Owner, and the Claimant's mother's name matches the published name of the Power of Attorney Holder. The Claimant identified the Account Owner's street address and the Power of Attorney Holder's maiden name, which match information contained in the Bank's record and 1938 Census records.

In support of her claim, the Claimant submitted documents, including her father's birth and death certificates, and the Claimant's birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by Emil Weiss, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city, country of residence, spouse's name, or street address than the city, country of residence, spouse's name, and street address of the Account Owner.

Status of the Account Owner as a Victim or Target 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, that he resided in Nazi-controlled Austria, and that he fled Austria at some point following the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). While the Claimant did not specify exactly when the Account Owner fled Austria, a letter contained in the 1938 Census materials indicates that the Account Owner fled Austria some time after 29 December 1938, but before the end of the Second World War.⁴ The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was the Claimant's

⁴ The Claimant stated in her claim form that the Account Owner resided in London during the War.

father. These documents include the Account Owner's death certificate, indicating that Emil Weiss had a daughter named [REDACTED], and her own birth certificate, indicating that [REDACTED] parents were Emil Weiss and Stephanie Bartussek. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the account was closed on 28 February 1939, by which time the Account Owner may have been outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his account to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his account 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 her father and that the Power of Attorney Holder was her mother, and that those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). 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 26,750.00.

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
29 May 2007