

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Max Weiss

## **in re Account of Erich Weiss**

Claim Number: 206968/ZP

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Max Weiss (the “Claimant”) to the account of Erich Weiss (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (the “TAD”) at the Bank.

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 and an Initial Questionnaire identifying the Account Owner as his brother, Erich Weiss, who was born on 30 January 1913 in Vienna, Austria. The Claimant stated that his brother, who was Jewish, worked in the textile industry and resided in Vienna until the Nazi annexation of Austria (the “*Anschluss*”) in March 1938 at which time he fled first to Liechtenstein and then to Basel, Switzerland. The Claimant explained that his brother wanted to remain in Switzerland, but that the Claimant's brother was refused refugee status by the Swiss government. The Claimant added that his brother had tried to help him enter Switzerland, but was unsuccessful. The Claimant also explained that in 1939 his brother went to Paris, France, where he resided at rue Capalat in Paris. The Claimant further explained that his brother remained in Paris until the Nazis occupied France, and that his brother was then deported to the Gurs concentration camp, where he died. The Claimant stated that his cousin, who was also interned at Gurs, told the Claimant that his brother had married, but the Claimant cannot recall his brother's wife's name.

The Claimant also stated that he himself was expelled from school in 1938, forced to perform labor in Vienna until October 1941, then sent to the Lodz ghetto, and from there was sent to the Auschwitz and Gross-Rolen concentration camps until the liberation in 1945. The Claimant further stated that all members of his family were killed in concentration camps.

In support of his claim, the Claimant submitted his brother's birth certificate, which indicates that he was born on 30 January 1913 in Vienna and that his parents were Julius Weiss and

Gizella Weiss. The Claimant also submitted a photo of his brother and a family tree. The Claimant indicated that he was born on 31 December 1919 in Vienna. The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by himself, and in which he identified his brother, Erich Weiss, and noted that his brother sought refugee status in Switzerland. In this Initial Questionnaire the Claimant also identified his father as Julius Weiss.

### **Information Available in the Bank's Record**

The Bank's record consists of a signed copy of the Bank's General Terms and Conditions. According to this record, the Account Owner was Erich Weiss, who signed the General Terms and Conditions on 22 December 1939 in Zurich, Switzerland. The Account Owner's place of residence is not indicated. The Bank's record indicates that the Account Owner held an account of unknown type. The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the databases comprising the approximately 4.1 million accounts representing the approximately 6.8 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 accounts, in databases located at the 59 ICEP audited Swiss banks,<sup>1</sup> are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database -- the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

In order to expedite the results of the ICEP investigation, certain necessarily arbitrary presumptions were used to exclude the 1.9 million savings and Swiss address accounts from the probable or possible accounts category. The 2.2 million were matched against the ICEP's victims database, but the reason for their exclusion in at least a significant number of cases no longer appears to be valid in the light of the experience of the CRT in reviewing cases as part of the Claims Resolution Process. For example, many accounts were excluded from the Account History Database on the grounds of activity after 1945, but in some cases there now appears to be no evidence that the account owners had full dominion over the accounts and were not just inquiring whether the bank, after many years, still maintained the record of their deposits, a fact often denied by the banks in these circumstances as has been demonstrated in many Awards made by the CRT.

These two sources may contain significant numbers of accounts of Nazi victims, especially when it is considered that of the 33,000 claims that were submitted to the CRT, 21,000 did not match

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<sup>1</sup> These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

to the 36,000 accounts in the Account History Database of probable and possible Nazi victim accounts. Because of the significant potential of this body of accounts, in its final Report in December 1999, ICEP specifically recommended that all claims submitted to the CRT should be matched against the applicable databases of accounts. The Rules Governing the Claims Resolution Process provide the procedures under which the TADs would be available for matching and research, but as a practical matter, until now, they have not been available to the CRT for this purpose.

Starting in the first week of this year, a test of the TAD was initiated at the Bank, with its full cooperation. The results of this test are now being compiled. This award is part of a group of accounts identified during the TAD test. Others are in the process. A final recommendation on the use of the TAD will be made to the Court when the final results of the test have been compiled.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's brother's name matches the unpublished name of the Account Owner. The Claimant indicated that his brother was in Switzerland which is consistent with the Account Owner's signing of his bank account's General Terms and Conditions apparently in Zurich on 22 December 1939. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name. In support of his claim, the Claimant submitted Erich Weiss' birth certificate which provides independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

Although the Account Owner's name was not published on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by himself, and in which he noted that his brother sought refugee status in Switzerland. This supports the credibility of the information provided by the Claimant. The CRT also notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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, who was Jewish, fled Austria during the *Anschluss*, and that the Account Owner was later deported to the Gurs concentration camp, where he died.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner. He submitted his brother's birth certificate, which indicates that his parents were Julius Weiss and Gizella Weiss. The Claimant also submitted an Initial Questionnaire with the Court in 1999 in which he identified his father as Julius Weiss. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

Given that the Account Owner opened an account at the Bank for safekeeping while he was in Switzerland on 22 December 1939; that after the Nazis occupied France in June 1940, the Account Owner was deported to the Gurs concentration camp, where he died; that there is no record of the payment of the Account Owner's account to him or his heirs; 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 or his 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 brother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an account of unknown type was 3,950.00 Swiss Francs. 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 49,375.00 Swiss Francs.

### **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) at banks other than the Bank.

### **Certification of the Award**

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

Claims Resolution Tribunal  
8 April 2004