

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Willy Wertheimer and Gertrud Wertheimer

Claim Numbers: 202144/RS, 774428/RS¹

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the published account of Willy Wertheimer and Gertrud Wertheimer (together, the “Account Owners”) 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 a Claim Form identifying the Account Owner as her paternal uncle, Willy Wertheimer (Werthamer). In a telephone conversation with the CRT on 12 February 2003, the Claimant indicated that her uncle, who was Jewish and was born sometime before 1893, was married and that he lived in Gruenberg, Germany. The Claimant indicated that her uncle owned successful weaving and spinning factories, called *Deutsch Woolen Manufacturers*, with operations in Germany and Switzerland, and that he may have kept residences in both countries. According to the Claimant, members of her family mentioned keeping money in Switzerland, which they hoped to access after the Second World War. The Claimant further indicated that after *Kristallnacht* (“Night of Broken Glass”) pogrom, she and her family, who

¹ In addition to her Claim Form, Claimant [REDACTED] (the “Claimant”) submitted an Initial Questionnaire (“IQ”), numbered ENG-0157125, to the Court in the United States in 1999. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs 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 774428.

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”), Willi Wertheimer and Gertrud Wertheimer are listed separately as owning one account each. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account belonging jointly to Willy Wertheimer and Gertrud Wertheimer.

resided in Cesky Tesin, Czechoslovakia (now the Czech Republic), never heard from her uncle again, and that her uncle never returned from the death camp to which he was deported. The Claimant further indicated that she is the only member of her family, including her parents and eight siblings, to survive the Holocaust.

In support of her claim, the Claimant submitted two documents: 1) an identification card issued to the Claimant in 1942 when she worked as a slave laborer, indicating that her last name was [REDACTED], and 2) a postcard written by her father from the ghetto in Cesky Tesin, indicating that his name was [REDACTED].

The Claimant indicated that she was born on 3 February 1923 in Cesky Tesin. The Claimant indicated that she submitted an ATAG Ernst & Young Claim Form (“ATAG Form”) in 1998 and an Initial Questionnaire (“IQ”) to the Court in 1999, asserting her entitlement to a bank account owned by Willy Wertheimer.

Information Available in the Bank’s Records

The Bank’s records consist of contracts to rent a safe deposit box, client cards, correspondence, and a list of safe deposit boxes that have been forced open. These records indicate that the Account Owners were Willy Wertheimer and *Frau* (Mrs.) Gerti (or Gertrud) Wertheimer, who provided a temporary address at the *Hotel Baur en Ville* in Zurich. The Bank’s records indicate that the Account Owners held one safe deposit box, numbered 1871, which they rented on 17 October 1927 for an annual fee of 15.00 Swiss Francs (“SF”). The Bank’s records further indicate that on 6 September 1938, Account Owner Willy Wertheimer exchanged safe deposit box 1871 for a larger safe deposit box, numbered 1866, with an annual rental fee of SF 27.00.

The Bank’s records, which contain multiple samples of both Account Owners’ signatures, indicate that they accessed box 1871, and then box 1866, multiple times between 17 October 1927 and 14 April 1939. In the Bank’s records, the Account Owners’ address at the *Hotel Baur en Ville* in Zurich was crossed out on an unknown date; there is no other address listed for the Account Owners. The Bank’s records further indicate that the Bank held all correspondence as of 4 November 1935 or earlier. According to these records, the box rental was renewed annually until 17 October 1942, at which point the rental of the box was not renewed.

The correspondence in the Bank’s records consists of five letters from the Bank to the Account Owners, dated between September and October 1945. In these letters the Bank made repeated requests to the Account Owners to empty their safe deposit box and to select a new box at the new facilities. The letters do not include the Account Owners’ address, and, given the hold mail instructions, it is not clear that the letters were ever mailed. It is evident from the letters, however, that the Account Owners did not respond to the correspondence. The Bank’s records indicate that representatives of the Bank forcibly opened the Account Owners’ safe deposit box on 14 November 1945. According to the Bank’s records, the contents of the box on that date were: 1) one receipt for the safe deposit box’s rental payments; 2) one receipt for repairs to a safe deposit box key; and 3) five assorted newspapers. The Bank’s records indicate that these items were retained by the Bank.

The CRT's Analysis

Identification of the Account Owners

The Claimant's paternal uncle's name matches the published name of Account Owner Willy Wertheimer.³ The CRT notes that the Bank's records do not contain any specific information about the Account Owners other than their names and a temporary address at a hotel in Zurich.

The CRT also notes that the Claimant did not identify Account Owner Gertrud Wertheimer. However, considering that the Claimant was a minor during the early years of the Second World War, it is plausible that the Claimant would not know the names of all of the members of her extended family; particularly since the Claimant is the only member of her family to have survived the Holocaust and is therefore unable to consult with other family members for information.

Finally, the CRT 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 Account Owner Willy Wertheimer.

Status of the Account Owners as Victims or Targets of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Willy Wertheimer was a Victim of Nazi Persecution. The Claimant stated that Account Owner Willy Wertheimer was Jewish, that after *Kristallnacht* he was never heard from again, and that he did not return from a death camp.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Willy Wertheimer by submitting specific information, demonstrating that he was her paternal uncle. The Claimant did not indicate that she is related to Account Owner Gertrud Wertheimer. However, given that the Bank's records indicate that the Account Owners shared the same surname, owned an account together, and resided at the same hotel, the CRT concludes that it is plausible that the Account Owners were related to one another, and therefore that it is plausible that the Claimant is related to Account Owner Gertrud Wertheimer. There is no information to indicate that the Account Owners have other surviving heirs.

The CRT notes that the Claimant submitted her forced labor identity card and a postcard written by her father, showing a spelling for their surname which is substantially similar to the Account Owners' surname, and that the Claimant indicated her family name was also spelled

³ The CRT notes that the documents the Claimant submitted show the name spelling "Werthamer;" however, the Claimant also indicated that "Wertheimer" is a variation on the spelling. Considering the similarity of these spelling variations, the CRT determines that this does not adversely affect the Claimant's identification of Account Owner Willy Wertheimer.

“Wertheimer.” Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Willy Wertheimer was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Willy Wertheimer, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank’s records indicate that the Bank forcibly opened the safe deposit box and retained the contents.

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 Governing the Claims Resolution Process (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owners were her relatives, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held one safe deposit box. 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 safe deposit box account was SF 1,240.00. 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 15,500.00.

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
12 October 2007