

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jan Plichta
also acting on behalf of Maria Plichta

in re Account of Rudolf Winternitz

Claim Number: 500393/HS

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of Jan Plichta (the “Claimant”) to the published account of Rudolf Winternitz (the “Account Owner”) at the Zurich branch of the [REDACTED] (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 identifying the Account Owner as his maternal grandfather, Rudolf Winternitz, who was born on 27 February 1882 in the Kralovske Vinohrady district of Prague, Czechoslovakia, and was married in 1919 in Prague to Margarethe Winternitz, née Schoppik, who was born on 18 February 1897. The Claimant indicated that his grandfather, who was Jewish, resided in Prague until 1919, when he moved to Austria, where his only child, Maria Plichta, née Winternitz (the Claimant’s mother), was born that year. The Claimant further indicated that his grandfather was a partner in *Bankhaus Winternitz* in Prague and that he owned an estate in Wagram/Donau, Austria. According to the Claimant, between 1920 and 1938, his grandfather divided his time between Prague and various locations in Austria, including Schloss Wetzdorf, Wagram/Donau, and Vienna. The Claimant further indicated that his grandfather resided in Prague from 1937 to 1938 and in Vienna from 1938 onwards. The Claimant stated that, after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), his grandfather’s estate was aryanized (“*entjuded*”).¹ The Claimant indicated that his grandfather died on 23 January 1944 in Vienna and that his grandmother died on 28 April 1988, also in Vienna.

¹ Literally, “de-Judaization,” a term used in Nazi legislation to refer to the removal of Jews from economic life. See <http://motlc.wiesenthal.com/text/x05/xm0594.html>.

The Claimant submitted documents, including: his grandparents' marriage certificate, dated in 1919 in Prague, indicating that Rudolf Winternitz resided in Prague; the Claimant's mother's birth certificate, dated in 1919 in Vienna, indicating that her father was Rudolf Winternitz; the Claimant's grandfather's death certificate, issued by a Vienna records office in 1966, indicating that Rudolf Winternitz, who was born in Czechoslovakia, died in Vienna II in 1944; and the Claimant's own birth certificate, dated in 1953 in Prague, showing that his mother is Maria Plichta, née Winternitz, the daughter of Rudolf Winternitz.

The Claimant stated that he was born on 31 October 1953 in Prague. The Claimant is representing his mother, Maria Plichta, who was born on 28 August 1919 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Rudolf Winternitz who resided in Prague, Czechoslovakia. This record indicates that the Account Owner held a safe deposit box, numbered S730, which was opened on 10 January 1938 and closed on 6 July 1940. 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 or his 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"). A list of 1938 Census records contained in the Austrian State Archive indicates that there are documents concerning the assets of Rudolf Winternitz, who was born 27 February 1882, and Margarethe Winternitz, who was born 18 February 1897, numbered 3757 and 3759, respectively. The archival record for Margarethe Winternitz shows that she resided in Klein Wetzdorf, Austria, and that her file was sent to the regional authorities. The records for Rudolf Winternitz were not available, but it is probable that his file also was ceded to the Wetzdorf authorities.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's name and country of residence match the Account Owner's published name and country of residence. The Claimant also identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Claimant did not identify the Account Owner's unpublished professional title, "Dr." However, the documents submitted by the Claimant in support of his claim provide independent verification that the person who is claimed to be the Account Owner had the same name as the Account Owner and resided at various times in the

same city as the Account Owner. These documents include the Claimant's grandparents' marriage certificate, his mother's birth certificate, his grandfather's death certificate, and his own birth certificate. Further, the Claimant stated that his grandfather lived in Prague in 1938, which is consistent with the account's opening date.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Rudolf Winternitz, and indicates that he was born on 27 February 1882 and that he resided in Vienna II. Finally, the CRT notes that there are no other claims to this account. Taking all 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, resided in Nazi-controlled Austria and that his estate was aryanized. As noted above, a person named Rudolf Winternitz was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he and his mother, represented party Maria Plichta, are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner is Maria Plichta's father and the Claimant's grandfather. These documents include the birth certificates of the Claimant and Maria Plichta. 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 was closed on 6 July 1940, at which time the Account Owner resided in Nazi-controlled Austria; that the Account Owner's other property was aryanized; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's 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 (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 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 represented party Maria Plichta. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that represented party Maria Plichta

is the child of the Account Owner, 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.

Further, the CRT notes that represented party Maria Plichta, as the Account Owner's child, has a better entitlement to the account than the Claimant, who is the Account Owner's grandchild.

Amount of the Award

In this case, the Account Owner held a 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 was 1,240.00 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 15,500.00.

Division of the Award

As indicated above, Maria Plichta, the Claimant's mother, has a better entitlement to the Award than the Claimant. Accordingly, Maria Plichta is solely entitled to 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
31 March 2005