

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 Arthur Weiller, Irma Weiller and Raymond Weiller

Claim Numbers: 223113/AX; 223114/AX; 223115/AX

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the "Claimant") to the published accounts of Arthur Weiller, Irma Weiller, and Raymond Weiller (the "Account Owners") at the Basle branch of the [REDACTED] (the "Bank").¹

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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted three Claim Forms identifying the Account Owners as his paternal grandmother, Irma Weiller, née Levi, who was born on 27 May 1879 in Ingwiller, France; his paternal grandfather, Arthur Weiller, who was born on 3 December 1872 in Saint Dié, France; and his father, Raymond François Weiller, who was born on 10 January 1908 in Saint Dié. The Claimant indicated that his grandparents had two children: Colette Villard, who was born in Saint Dié and died in Luneville, France, and the Claimant's father, who was born on 10 January 1908 in Saint Dié. The Claimant further stated that his grandmother did not work and that his grandfather, who was a member of the French Legion of Honor in World War One, was a furniture manufacturer in Saint Dié, where they both resided until 1940. The Claimant added that his father was a physician and that he practiced medicine at hospitals in Strasbourg and Marseille, France. According to the Claimant, his grandparents, who were Jewish, were forced to flee to Southern France where they lived in hiding during the Nazi occupation of France. The

¹ 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"), the Account Owners are listed as having two accounts each. Upon careful review, the CRT has concluded that the Bank's records evidence that the Account Owners held two accounts jointly.

Claimant explained that in 1942, his father, who was also Jewish, was warned that the Gestapo was about to arrest him and managed to escape to a sanatorium named *Le Mont Blanc*, where he lived in hiding until the end of the Second World War. The Claimant stated that his grandmother died on 12 April 1962 in Luneville, that his grandfather died on 19 May 1970 in Luneville, and that his father died on 7 November 1984 in Marseille, France.

In support of his claims, the Claimant submitted documents including his father's *Livret de Famille* (Family Booklet) indicating that his father was Raymond Weiller and his grandparents were Arthur and Irma Weiller, the death certificate for Arthur Weiller, indicating that he was born in Saint Dié and died in Luneville and that his wife was Irma Weiller, the death certificate for Irma Weiller, indicating that she died in Luneville on 12 April 1962, Jewish registration certificates for Arthur Weiller, Irma Weiller, and Raymond Weiller, indicating that both Arthur Weiller and Raymond Weiller were born in Saint Dié, correspondence to Raymond Weiller from the government of France, dated 8 October 1941, indicating new regulations in effect for Jewish people in France, and a letter from the *French National Medical Association*, dated 15 November 1941, indicating that Dr. Raymond Weiller could no longer practice medicine in France because he was Jewish.

The Claimant indicated that he was born on 22 March 1946 in Marseille, and that his brother, [REDACTED 2], whom the Claimant is representing in these proceedings, was born on 22 March 1947 in Marseille. The Claimant is also representing his cousins: [REDACTED 3], who was born on 10 November 1927 in Luneville, and [REDACTED 4], who was born on 28 July 1932, also in Luneville.

Information Available in the Bank's Records

The Bank's record consists of two customer cards. According to these records, the Account Owners were Irma Weiller, née Lévi, Arthur Weiller and Dr. Raymond Weiller. The Bank's records indicate that both Irma Weiller and Arthur Weiller resided at 17 rue Thiers in Saint Dié, France, and Raymond Weiller's address was at the Civil Hospital (*Hôpital Civil*) in Strasbourg, France. According to the Bank's records, the Account Owners jointly held one custody account and one demand deposit account, both numbered 37687.

The Bank's records indicate that the accounts were opened on 2 June 1932 and were closed on 26 April 1948. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the

CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His grandparents' names and cities of residence match the published names and cities of residence of Account Owner Arthur Weiller and Account Owner Irma Weiller. The Claimant's father's name and city of residence match the published name and city of residence of Account Owner Raymond Weiller. The Claimant identified his father as a physician who practiced at a hospital in Strasbourg, which matches unpublished information about Account Owner Raymond Weiller contained in the Bank's records. Moreover, the Claimant identified Arthur Weiller, Irma Weiller, and Raymond Weiller, as being related, despite the fact that the Account Owners were published separately on the list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP List").

In support of his claims, the Claimant submitted documents, including the death certificate for Arthur Weiller, indicating that he was born in Saint Dié and that his wife was Irma Weiller, Jewish registration certificates for Arthur Weiller, Irma Weiller, and Raymond Weiller, indicating that both Arthur Weiller and Raymond Weiller were born in Saint Dié, and that Irma Weiller was the wife of Arthur Weiller, and a letter from the *French National Medical Association*, indicating that Raymond Weiller was a doctor, providing independent verification that the persons who are claimed to be the Account Owners had the same names, cities of residence, and profession recorded in the Bank's records as the names, cities of residence, and profession of the Account Owners. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and were forced into hiding when the Nazis invaded France. The Claimant submitted a letter from the *French National Medical Association*, dated 15 November 1941, indicating that Dr. Raymond Weiller could no longer practice medicine in France because he was Jewish.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents demonstrating that he is the son of Raymond Weiller, and the grandson of Irma and Arthur Weiller. These documents include his father's *Livret de Famille* (Family Booklet) indicating that Raymond Weiller's parents were Arthur and Irma Weiller, and that the Claimant is the son of Raymond Weiller.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his father and grandparents, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one demand deposit account and one custody 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP (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 25(1) of the Rules, if an account is a Joint Account and Claimants related to each of the Account Owners have submitted claims to the Accounts, as is the case here, it shall be presumed that each Account Owner was the owner of an equal share of the Account. In the present case, it shall be presumed that each Account Owner owned one-third of the account.

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the Award shall be in favour of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. The Claimant is representing his brother, [REDACTED 2], and his two cousins, [REDACTED 3] and [REDACTED 4].

With respect to Account Owner Raymond Weiller's share of the account, the Claimant and his brother, as sons of Account Owner Raymond Weiller, have a better entitlement to Account Owner Raymond Weiller's share in the account than the Claimant's cousins. Consequently, the Claimant and his brother are each entitled to receive one-half of Raymond Weiller's share of the account.

With respect to Account Owner Arthur Weiller and Account Owner Irma Weiller's shares in the account, the Claimant, his brother and his cousins, as grandchildren and direct descendants of Account Owner Arthur Weiller and Account Owner Irma Weiller, are equally entitled to the Account Owner Arthur Weiller and Account Owner Irma Weiller's shares of the account. Consequently, the Claimant, his brother, and his two cousins are each entitled to receive one-quarter of Account Owner Irma Weiller's and Account Owner Arthur Weiller's shares of the account.

Accordingly, the Claimant and his brother, [REDACTED 2], are each entitled to one-third of the total award amount, and the Claimant's cousins, [REDACTED 3] and [REDACTED 4], are each entitled to receive one-sixth 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 claims 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
28 September 2004