

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Accounts of Wilhelm Weinberger and Leonora Weinbergerova

Claim Number: 601252/LV;¹ 736900/LV²

Award Amount: 80,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“[REDACTED 1]”) and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the unpublished accounts of Wilhelm Weinberger (“Account Owner Weinberger”) and Leonora Weinbergerova (“Account Owner Weinbergerova”) (together the “Account Owners”), at the Geneva and Zurich branches of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

Information Provided by the Claimants

[REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying Account Owner Weinberger and Account Owner Weinbergerova as her grandfather, Wilhelm Weinberger and her mother, Leonora Weinbergerova. Claimant [REDACTED 2], who is [REDACTED 1]’s maternal uncle, submitted an Initial Questionnaire identifying Account Owner Weinberger as his father, Wilhelm Weinberger. In a telephone conversation with the CRT on 3 February 2005, Claimant [REDACTED 2] stated that Leonora Goldberger, née

¹ The Claimant’s mother, Lenora Goldberg, née Weinberger, originally submitted a claim, numbered B-00007, on 17 September 1997 to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and was assigned Claim Number 601252. Leonora Goldberg has passed away, and her daughter, [REDACTED 1], has assumed her mother’s claim.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered RUS 0105 182, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires 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 736900.

Weinberger, was his sister. [REDACTED 1] stated that her grandfather was born on 22 July 1883 in Mikulic, Czechoslovakia, and was married to Alice Weinberger, née Fuerth, on 15 March 1914. According to [REDACTED 1], her grandparents had two children, [REDACTED 1]'s mother, Leonora Goldberger, née Weinberger, who was born on 1 January 1916 in Vienna, Austria, and Claimant [REDACTED 2], who was born on 2 November 1915 in Vienna. [REDACTED 1] stated that her grandfather held the honorary title of *Kommerzienrat* and was a successful businessman who owned a chain of department stores called *Warenhäuser W. Weinberger*, which sold linoleum, carpets and curtains, and had several branches in Vienna and two locations in Pilsen, Czechoslovakia (now Pilsen, Czech Republic). [REDACTED 1] further explained that her grandfather frequently traveled to Switzerland because he had business relations with Swiss companies, from which he purchased linoleum for his stores. According to [REDACTED 1], her family, who was Jewish, emigrated to Palestine in 1939, where the Claimant's grandfather died on 11 September 1939 in Tel Aviv, Palestine (now Israel). [REDACTED 1] indicated that she was born on 13 October 1953 in Tel Aviv, Israel. Claimant [REDACTED 2] indicated that he was born on 2 November 1915.

[REDACTED 1] submitted various documents in support of her claim, including the business letterhead from her grandfather's store, *Warenhäuser W. Weinberger*, which indicates that the store was located at Felixmottlstrasse 14, Vienna XIX, and that it had several branches in Vienna; Leonora Goldberger's death certificate, which states that she was born in Vienna, as well as identifying [REDACTED 1] as her daughter and identifying Wilhelm Weinberger as her father; Wilhelm Weinberger's will, identifying his son and daughter, Ludwig and Leonora Weinberger, as his heirs; and letters from the Bank to the HCPO in 1999 and 2000, acknowledging the existence of accounts held by Wilhelm and Leonora Weinberger.

Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report any accounts owned by Wilhelm Weinberger or Leonora Weinbergerova during their investigation of the Bank. The Bank's documents were obtained from the Bank by the HCPO on [REDACTED 1]'s behalf and were forwarded to the CRT.

Account Owner Weinberger

The Bank's records consist of a customer card, a safe deposit box registry card, a receipt of a deposit made in a custody account, a registry of closed numbered accounts, correspondence between the Bank and Account Owner Weinberger, and correspondence between the Bank and the HCPO. According to these records, Account Owner Weinberger was *Kommerzienrat* Wilhelm Weinberger, who resided at Raaberbahngasse 12 in Vienna, Austria. The Bank's records indicate that Account Owner Weinberger held a demand deposit account and a custody account, both numbered 36347, as well as three numbered accounts held under the designation 60610: a demand deposit account in Pound Sterling, a demand deposit account in Swiss Francs ("SF"), and a safe deposit box numbered 304.

Accounts opened under number 36347

With respect to the custody account, the Bank's records indicate that Account Owner Weinberger deposited 50 *Nestlé* shares into the custody account on 15 May 1933. The Bank's records indicate that the custody account, numbered 36347, was closed on 13 June 1933. The value of the account on the date of its closure is unknown.

As for the demand deposit account, the Bank's records do not indicate when it was closed nor do these records indicate the value of this account.

Accounts opened under number 60610

The Bank's records indicate that the safe deposit box numbered 304 was rented on 19 June 1933 and that the demand deposit account in Swiss Francs was opened no later than August 1935.

With regard to the safe deposit box numbered 304, the Bank's records indicate that it was blocked internally to secure the deposit on the safe deposit box keys on 18 June 1937 and unblocked on 25 January 1939. In a letter dated 25 January 1939, the Bank responded to Account Owner Weinberger's letter of 12 January 1939, in which he returned one of the keys for the safe deposit box, and expressed its regret that he had ended his relationship with the Bank. The Bank's letter further states that it opened the safe deposit box and found it to be empty. The Bank informed Account Owner Weinberger in the same letter that, as the second key to the box had not been returned, it would charge his demand deposit account SF 40.00 for expenses associated with changing the locks if it did not receive the second set of keys by 15 February 1939.

According to the Bank's records, the safe deposit box rental fees were paid from the demand deposit accounts held by Account Owner Weinberger, initially from the demand deposit account in Pound Sterling and subsequently from the demand deposit account in Swiss Francs. The Bank's records indicate that the demand deposit account in Pounds Sterling had been closed by June 1937, but the exact date of closure is not known. The Bank's records further indicate that the demand deposit account in Swiss Francs was opened no later than 21 August 1935.

The Bank's records contain a letter from the Bank, dated 23 February 1939, informing Account Owner Weinberger that a fee of SF 40.00 was debited to his demand deposit account, leaving the account with a zero balance. According to the Bank's records, the customer relationship under number 60160 was terminated on 24 April 1940, as the accounts held under that designation had been closed.

Account Owner Weinbergerova

The Bank's records consist of a customer card and correspondence between the Bank and the HCPO. According to the Bank's records, the Account Owner was *Mlle.* (Miss) Leonora Weinberger-ova, who held three accounts at the Geneva branch of the Bank: one demand deposit account in United States Dollars, one demand deposit account in French Francs, and one custody

account containing United States Dollars and Pound Sterling in gold coins. All three accounts were opened no later than 19 August 1938 under the number Z.H. 21772. These records indicate that initially Account Owner Weinbergerova held the accounts jointly with *Madame* (Mrs.) [REDACTED], and that she became the sole owner of the accounts on 10 November 1938. The Bank's records further indicate that *Monsieur* (Mr.) [REDACTED] was authorized to manage the accounts.

With regard to the custody account, which contained gold coins worth approximately SF 85,000.00 as of 10 January 1939, the Bank's records indicate that on that date, an unspecified number of gold coins were transferred to *Barclays Bank*, Haifa, Palestine. These records further indicate that the remaining gold coins were transferred to the Zurich branch of the Bank, and that the custody account was closed on that date.

As for the demand deposit accounts in United States Dollars and Swiss Francs, the Bank's records indicate that they were closed no later than 10 January 1939, but the exact date of closure is not known. The records show that gold coins and US dollars, worth approximately SF 181,000.00, were transferred, as directed by the Zurich branch, but there is no further indication as to the recipient(s) of the transfer or the total value of these accounts. There is no evidence in the Bank's records that Account Owner Weinbergerova or her heirs closed these accounts and received the proceeds.

Information Available from the Austrian State Archives

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 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 Wilhelm Weinberger, numbered 40622. According to these records, Wilhelm Weinberger was born on 21 July 1883, was married to [REDACTED], née [REDACTED], and gave his address as Pilsen, Czechoslovakia. The records further indicate that Wilhelm Weinberger owned a 60% share of *W. Weinberger & Co.*, a department store which sold carpets, curtains and linoleum. The value of the store is not available, as all addenda to the asset declaration, including those detailing his financial assets, were not preserved. Correspondence in the file, dated 16 June 1939, however, shows that in the aryianization proceeding of *W. Weinberger & Co.* the approved sale price for the company was set at 295,089.12 Reichsmark ("RM"). The records additionally indicate that, as of 29 July 1938, Wilhelm Weinberger had a deposit worth RM 3,954.00 at the "D.D. Bank" in Berlin, as well as a life insurance policy issued by the *Gemeinde Wien-Städtische Versicherungsanstalt*. According to an assessment notice from the flight tax authorities (*Reichsfluchtsteuerstelle*) dated 28 July 1939, Wilhelm Weinberger's total assets were worth approximately RM 999,900.00, resulting in a *Reichsfluchtsteuer* ("flight tax") assessment of RM 249,976.00. The records further include official correspondence regarding proceedings initiated against Wilhelm Weinberger for not declaring on his 1938 Census form RM 5,062.00 worth of valuables, which were found in his emigration shipment and which had been confiscated. The proceedings were suspended on 19 March 1941, as the whereabouts of Wilhelm Weinberger and his wife were unknown. The correspondence further notes on 8 January 1940 that "the two

Jews” had left for an unknown destination on 12 September 1938. The part of the records that is still preserved does not mention any assets held in a Swiss bank account.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. [REDACTED 1]'s grandfather’s and mother’s names match the unpublished names of the Account Owners. Claimant [REDACTED 2]'s father’s and sister’s names and city and country of residence match the unpublished names and city and country of residence of the Account Owners. Further, [REDACTED 1]'s grandfather’s professional title and city of residence match unpublished information about Account Owner Weinberger contained in the Bank’s records. In support of her claim, [REDACTED 1] submitted letters from the Bank to the HCPO in 1999 and 2000, acknowledging the existence of accounts held by Wilhelm and Leonora Weinberger; the business letterhead from [REDACTED 1]'s grandfather’s store, *Warenhäuser W. Weinberger*, which indicates that the store was located at Felixmottlstrasse 14, Vienna XIX, and that it had several branches in Vienna; and Leonora Goldberger's death certificate, which states that she was born in Vienna and identifies her father as Wilhelm Weinberger, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same town recorded in the Bank’s records as the names and city of residence 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 Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish and that they fled Austria during the Second World War. Furthermore, the records of the Austrian State Archives indicate that Account Owner Weinberger was assessed flight tax of RM 249,976.00 on 28 July 1939.

The Claimants’ Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting documents demonstrating that [REDACTED 1] is the granddaughter of Account Owner Weinberger, and the daughter of Account Owner Weinbergova and that Claimant

[REDACTED 2] is the son of Account Owner Weinberger and the brother of Account Owner Weinbergerova. In support of her claim, [REDACTED 1] submitted Leonora Goldberger's death certificate, which states that she was born in Vienna, as well as identifying the Claimant as the daughter of Leonora Goldberger and identifying Leonora Goldberger's father as Wilhelm Weinberger; and Wilhelm Weinberger's will, identifying his son and daughter, Ludwig and Leonora Weinberger, as his heirs. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Account Owner Weinberger's accounts

With regard to custody account number 36347, which was closed on 13 June 1933, and the demand deposit account in Pound Sterling held under the designation 60160, which was closed by June 1937, the CRT notes that the accounts were closed prior to the German incorporation of Austria into the Reich in March 1938 (the "*Anschluss*") and concludes that Account Owner Weinberger received the proceeds of these accounts.

With regard to the safe deposit box numbered 304 and the demand deposit account in Swiss Francs, which were held under the designation 60160, the Bank's records indicate that Account Owner Weinberger contacted the Bank on 12 January 1939 to return one of the keys to safe deposit box 304, thereby showing his intention to terminate his relationship with the Bank regarding safe deposit box number 304. Furthermore, in subsequent correspondence from the Bank, dated 25 January 1939, the Bank expressed its regret that the Account Owner had ended his relationship with the Bank. The same letter indicates that the Bank requested the remaining key for the safe deposit box numbered 304 from Account Owner Weinberger and that it opened this safe deposit box and found it to be empty. The Bank's records also indicate that the Account Owner's Swiss Franc demand deposit account was debited SF 40.00 on 23 February 1939 for expenses associated with his not returning the second set of keys, leaving the account with a zero balance. The Bank's records confirm that the numbered relationship with Account Owner Weinberger was closed on 24 April 1940 because the accounts held under this designation had been closed. The CRT therefore concludes that safe deposit box 304 and the demand deposit account in Swiss Francs were closed in the ordinary course of business.

With regard to demand deposit account number 36347, given that there is no date of closure of the account; that the Nazi regime had immediately upon the *Anschluss* begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found that numerous such confiscations of Swiss bank accounts occurred from this time; that Account Owner Weinberger was Jewish and fled Austria after the *Anschluss*; that there is no record of the payment of these accounts to him or his heirs; that Account Owner Weinberger'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 bank's 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 the Rules (see Appendix A), the CRT concludes that it is plausible that the account's proceeds were not paid to Account Owner Weinberger or his heirs.

Account Owner Weinbergerova's accounts

With regard to the custody account, given that some of the gold coins held in the account were transferred to *Barclays Bank* in Haifa, and the remaining gold coins were transferred to the Zurich branch of the Bank, the CRT concludes that Account Owner Weinbergerova was able to access the account and received its proceeds herself.

With regard to the two demand deposit accounts, given that there is no date of closure of the accounts; that the Nazi regime had immediately upon the *Anschluss* begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found that numerous such confiscations of Swiss bank accounts occurred from this time; that Account Owner Weinbergerova was Jewish and fled Austria after the *Anschluss*; that there is no record of the payment of these accounts to her or her heirs; that Account Owner Weinbergerova's heirs would not have been able to obtain information about her 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, the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Weinbergerova or her heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, [REDACTED 1] has plausibly demonstrated that the Account Owners were her grandfather and mother, and those relationships justify an Award. Claimant [REDACTED 2] has plausibly demonstrated that the Account Owners were his father and sister, and those relationships justify an Award. Finally, the CRT has determined it is plausible that neither the Account Owners nor their heirs received the proceeds of demand deposit account number 36347 held by Account Owner Weinberger and the two demand deposit accounts held by Account Owner Weinbergerova.

The CRT notes that [REDACTED 1], as Account Owner Weinbergerova's daughter, has a better entitlement to her mother's accounts than Claimant [REDACTED 2], Account Owner Weinbergerova's brother.

Amount of the Award

In this case, the Award is for three demand deposit accounts. 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 similar type of account is unknown, as is the case here, the average value of the account being awarded. Based on the ICEP Investigation, in 1945 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 6,420.00. 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 80,250.00.

Division of the Award

Account Owner Weinberger's Account

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. Moreover, According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance, but has not submitted an unbroken chain of wills, the CRT must use the general principles of distribution to make allowance for any missing links in the chain. In this case, Account Owner Weinberger's will identified both Account Owner Weinbergerova and Claimant [REDACTED 2] as his heirs. Accordingly, [REDACTED 1], as the daughter of one of Account Owner Weinberger's heirs, and Claimant [REDACTED 2] are each entitled to receive one-half of Account Owner Weinberger's account.

Account Owner Weinbergerova's Accounts

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 favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Accordingly, [REDACTED 1] is entitled to receive the total award amount for Account Owner Weinbergerova's accounts.

Accordingly, [REDACTED 1] is entitled to an award of SF 66,875.00 and Claimant [REDACTED 2] is entitled to an award of SF 13,375.00

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
15 July 2005