

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]
represented by Erez Bernstein

in re Accounts of Max Werdisheim

Claim Number: 501464/AX

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of Max Werdisheim (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 father, Max Werdisheim, who was born on 19 January 1886, and was married to [REDACTED], née [REDACTED] in Austria. The Claimant indicated that her father, who was Jewish, was a merchant who resided in Leoben, Austria, at Waasenplatz 1. The Claimant indicated that her father later moved to Vienna, Austria. According to the Claimant, her parents, along with her twin brothers, [REDACTED] and [REDACTED], were all killed in the Holocaust. In support of her claim, the Claimant submitted her birth certificate, showing that her father was Max Werdisheim and that he was from Leoben, an untitled document relating to Max Werdisheim’s family members, indicating that he and his family resided in Leoben until 10 March 1939, at which point they moved to Vienna, and that the police were informed of their change of address; and a Page of Testimony that she submitted to the Yad Vashem Memorial in Israel, to include Max Werdisheim of Leoben as a victim of the Holocaust.

The Claimant indicated that she was born on 6 November 1933 in Donawitz, Austria. The Claimant is representing her nephew, [REDACTED 2], the son of the Claimant’s sister, [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Max Werdisheim, who resided in Leoben, Austria. The Bank's record indicates that the Account Owner held five demand deposit accounts. The Bank's record indicates that the demand deposit accounts were closed on the following dates: 20 September 1932, 10 August 1933, 10 March 1934, 10 October 1936, and 20 April 1938. The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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, and/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"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Max Werdisheim, numbered 47318. According to these records, Max Werdisheim, was born on 19 January 1886, was married to [REDACTED], née [REDACTED], and resided at Kärtnerstrasse 20, Leoben. He reported owning a wholesale business, real estate, including a building at Waasenplatz 1, Leoben, and a number of Austrian securities and liquid assets. Correspondence in the file shows that, according to the flight tax authorities, the total assets of Max Werdisheim were figured at 283,903.00 Reichsmark ("RM"), upon which flight tax (*Reichsfluchtsteuer*) of RM 70,975.00 was assessed. Furthermore, an exchange of letters between the Leoben Tax Office and the *Vermögensverkehrsstelle* documents that the *Österreichische Creditanstalt* held RM 9,936.62 in a blocked account in the name of *Vermögensverkehrsstelle/Max Werdisheim* and that this account had been impounded by the Leoben Tax Office against Max Werdisheim's atonement tax (*Judenvermögensabgabe*) liability.¹ These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name and country of residence match the published name and country of residence of the Account Owner. The Claimant's father's city of residence matches the unpublished city of residence of the Account Owner. The Claimant's father's birth date and mother's name match unpublished information contained in the 1938 Census records. In support of her claim, the Claimant submitted documents, including her birth certificate, an untitled document regarding Max Werdisheim's change of address, and a Page of Testimony submitted by the Claimant to the Yad Vashem Memorial, indicating that her father was Max Werdisheim and that he was from Leoben, providing independent verification that the person who is claimed to be the Account Owner had

¹ The *Creditanstalt's* letter shows that RM 9,951.00 was actually transferred.

the same name and resided in the same town recorded in the Bank's record as the name and place of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes information concerning a person named Max Werdisheim, which indicates that he was born on 19 January 1886 and was from Austria, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to these accounts.

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 was Jewish, and that he was killed in the Holocaust.

As noted above, a person named Max Werdisheim was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth certificate, showing that her father was Max Werdisheim. There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant represents.

The Issue of Who Received the Proceeds

With respect to four of the Account Owner's demand deposit accounts, the Bank's record indicates that these accounts were closed on 20 September 1932, 10 August 1933, 10 March 1934, and 10 October 1936, prior to the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). Consequently, the CRT concludes that the Account Owner closed these accounts and received the proceeds of these four demand deposit accounts himself.

With respect to the Account Owner's fifth demand deposit account closed on 20 April 1938, given that the Account Owner remained in Austria until he was killed during the Holocaust; that there is no record of the payment of the Account Owner's fifth demand deposit account to him; that the Account Owner's heirs would not have been able to obtain information about his 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 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 her father, 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 fifth demand deposit account.

Amount of the Award

In this case, the Award is for one demand deposit 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 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 demand deposit account was 2,140.00 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 26,750.00.

Division of the Award

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. In this case, the Claimant is representing her nephew, [REDACTED 2], who is the son of her sister, [REDACTED]. Accordingly, the Claimant and [REDACTED 2] are each entitled to one-half 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 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