

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Max Glaser

Claim Numbers: 600073/MBC;¹ 779480/MBC²

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished account of Max Glaser (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).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 Claimants

Claimant [REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) and Claimant [REDACTED 2], her brother, submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as their father, Dr. Max Glaser, who was born on 11 August 1886 to [REDACTED] and [REDACTED], née [REDACTED], in Saatz, Bohemia, Austria-Hungary (today Zatec, Czech Republic), and was married to [REDACTED] on 11 June 1927 in Vienna, Austria. The Claimants stated that their parents, who were Jewish, resided in Vienna, where their two children were born: Claimant [REDACTED 1] on 1 February 1929 and Claimant [REDACTED 2] on 1 October 1933. According to the Claimants, their father was a successful

¹ Claimant [REDACTED 1] submitted a claim, numbered B-00023, on 18 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 has been assigned Claim Number 600073.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0370-085, 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 779480.

attorney who counted the *Oesterreichische Creditanstalt-Wiener Bankverein* among his many clients and whose law firm was located on Schultergasse 5 in Vienna I. The Claimants stated that on the day that Austria was incorporated into the Reich in March 1938 (the “*Anschluss*”), their father was in Switzerland on business, but that he decided to return to Austria to be with his family. The Claimants stated that following the *Anschluss*, their father was stripped of his job and possessions; his law practice was confiscated by the Nazi regime; his bank accounts were frozen; and, in the summer of 1938, he was arrested by the Gestapo and brutally interrogated for three days. In a telephone conversation on 7 April 2005, Claimant [REDACTED 1] indicated that, in September 1938, using her father’s connections, her family was able to flee to London, England, and from there to the United States via Christchurch, New Zealand. According to the Claimants, in 1946 or 1947, their father, who was then in New Zealand, contacted Swiss banks about the possibility of retrieving money he had deposited there, but was unable to access his accounts. The Claimants stated that their father died in Los Angeles, California, the United States, on 4 November 1952, and their mother [REDACTED], née [REDACTED], died on 30 August 1994.

In support of their claims, the Claimants submitted a letter from the Bank’s Securities department, dated 6 December 1938, and addressed to Dr. Max Glaser at his residence in London. This letter acknowledged receipt of an undated letter from Dr. Max Glaser, in which he instructed the Bank to hold the following securities at the disposal of the *Oesterreichische Creditanstalt Wiener Bankverein*, Vienna for his account:

- 4 Preference shares *Société Continentale de Valeurs Bancaires et Industrielles, Bâle*,
- 21 Ordinary shares *Société Continentale de Valeurs Bancaires et Industrielles, Bâle*,
- Fr. 32.87 fractional certificate of 1 Preference share *Société Continentale de Valeurs Bancaires et Industrielles, Bâle*, and
- Fr. 64.36 fractional certificate of 1 Ordinary share *Société Continentale de Valeurs Bancaires et Industrielles, Bâle*.

Additionally, Claimant [REDACTED 1] submitted numerous documents, including her father’s birth certificate and certificate of residence in Vienna, her parents’ marriage certificate, her father’s 1938 Census of Jewish-owned assets declaration, his passport issued by the German embassy in London, England on 23 January 1939, stamped with the letter “J” on the cover, and her father’s death certificate. Furthermore, Claimant [REDACTED 1] submitted copies of her and her brother’s birth certificates, indicating that they are the children of Dr. Max Glaser, and that they were born in Vienna.

Claimant [REDACTED 1] also submitted a copy of the claim she filed with the Contact Office for the Search of Dormant Accounts Administered by Swiss Banks in 1996, as well as that office’s response, dated 25 March 1997, informing her that no dormant accounts belonging to her father, Max Glaser, had been found in any Swiss bank, and a copy of a letter from the Bank to the HCPO, dated 15 June 1998, stating, in response to an inquiry from the HCPO, that it had found no records regarding accounts belonging to Max Glaser.

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 an account belonging to Max Glaser during their investigation of the Bank. The letter from the Bank to the Account Owner, dated 6 December 1938, upon which this Award is based, was submitted by the Claimant.

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”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Max Glaser, numbered 32949, signed on 15 July 1938 and 15 December 1938, and [REDACTED], numbered 40747, signed on 15 July 1938. These records indicate that Dr. Max Glaser was born on 11 August 1886, that he resided at Reithlegasse 5, Vienna XIX, that he was married to [REDACTED], née [REDACTED], and that he was an attorney with an office located at Schultergasse 5, Vienna I. According to these records, on 15 December 1938 Max and [REDACTED] Glaser's total assets were valued at 57,595.00 Reichsmark (“RM”), including a house at Stolzenthalgasse 17 in Vienna VIII valued at RM 34,780.00. These records indicate that Dr. Max Glaser had left Austria at the beginning of September 1938 and was residing in London, England.

The records also contain a copy of a letter from Dr. Max Glaser in London to the *Vermögensverkehrsstelle* (Property Control Office), dated 30 December 1938. In this letter, Dr. Max Glaser notified that Office that he had consolidated his assets in one custody account at the *Oesterreichische Creditanstalt-Wiener Bankverein* in Vienna, and that he requested a complete description of the assets held there per 12 November 1938 to be provided by that bank. Dr. Max Glaser further indicated that because he did not yet have the bank's response to this request, and because he was unable to remember most of the assets transferred to the account, he asked for an extension of the deadline to complete the required forms. These records indicate that a confiscation order was issued by the Gestapo in Vienna on 12 November 1941, ordering the confiscation of all assets belonging to Max and [REDACTED] Glaser. These records make no mention of 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 Owner

The Claimants have plausibly identified the Account Owner. In support of their claim, the Claimants submitted copies of various documents, including their father's birth certificate, their parents' marriage certificate, their father's 1938 Census declaration, and his passport issued by the German embassy in London, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and the city of residence of the Account Owner.

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that after the *Anschluss* in 1938 he was stripped of his job and possessions, his law practice was confiscated by the Nazi regime, his bank accounts were frozen, that he had to declare his assets, and that he and his family fled Austria to avoid further persecution.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was the Claimants' father. These documents include the Claimants' birth certificates, which indicate that they are the children of Dr. Max Glaser. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

According to the letter from the Bank, dated 6 December 1938, the Account Owner held shares in *Société Continentale de Valeurs Bancaires et Industrielles, Bâle* at the Bank. According to this letter, the Account Owner requested the Bank to place the shares at the disposal of the *Oesterreichische Creditanstalt – Wiener Bankverein* in Vienna for his account. According to the Account Owner's letter of 30 December 1938 to the Property Control Office, the Account Owner had consolidated his various securities in a custody account at that bank. The CRT therefore concludes that the securities previously held at the Bank were reported to Nazi authorities and transferred to the *Oesterreichische Creditanstalt*.

Given these facts, which are similar to other cases that have come before the CRT in which Jewish residents or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their assets were transferred to banks in the Reich; and given that the CRT's precedent indicates that it is plausible in such situations that the assets ultimately were confiscated by the Nazi regime; that the Account Owner resided in Austria after the *Anschluss*; that the Account Owner was arrested and interrogated by the Gestapo; that the Account Owner

and his heirs were not 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 (e), (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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their 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 account.

Amount of the Award

The Bank's record in this case does not indicate the type of account held by the Account Owner. However, the 6 December 1938 letter from the Bank's Securities Department to the Account Owner makes it clear that the Account Owner held securities at the Bank. The CRT notes that the Account Owner informed the Property Control Office that he had consolidated his securities in a custody account at the *Oesterreichische Creditanstalt*. Given that securities are usually held in custody accounts, and that the Account Owner later consolidated his securities in a custody account at the bank in Vienna, the CRT concludes that the Account Owner held one custody account at the Bank.

The 6 December 1938 letter from the Bank to the Account Owner indicates that the Account Owner held 4 "preference" shares and 21 "ordinary" shares of the *Société Continentale de Valeurs Bancaires et Industrielles, Bale*, as well as SF 32.87 fractional certificate of one preference share and a SF 64.36 fractional certificate of one ordinary share of the same company. There is no information as to the value of these shares. In the absence of information about the value of the shares in the custody account, the CRT has determined to treat this account as an account of unknown value.

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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 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 162,500.00.

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 Claimants are the children of the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total award amount.

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
21 September 2005