

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Accounts of Max Steiner

Claim Numbers: 215751/RT; 215890/RT

Award Amount: 189,250.00 Swiss Francs

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

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

Information Provided by the Claimants

The Claimants, who are siblings, each submitted a Claim Form identifying the Account Owner as their father, Maximilian Steiner, who was born on 31 August 1894 in Vienna, Austria, and was married to [REDACTED], néé [REDACTED]. In a telephone conversation with the CRT on 5 August 2005, Claimant [REDACTED 2] also indicated that his father, who was Jewish, owned a clothing factory named *Demes*, which was located at Stiftgasse 6 in Vienna. In addition, Claimant [REDACTED 2] indicated that his father held a doctor title. Claimant [REDACTED 2] further stated that his father left Austria after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), and fled first to Yugoslavia, then to France, and finally to England, where he died in 1971.

¹ The CRT will treat the claims to this account in a separate determination.

² 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”), Max Steiner is indicated as having four accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only two accounts.

The Claimants submitted their birth certificates, indicating that they were born in Vienna and that their parents were [REDACTED] and Dr. Maximilian Steiner. Claimant [REDACTED 1] also submitted a French identification and travel certificate, issued to her in 1940, indicating that she was born in Vienna; and the death certificate of Maximilian Axel Steiner, stating that he was born on 31 August 1894 in Austria, was the director of a clothing manufacturing business, and died on 16 August 1971 in Cockermouth, United Kingdom. Claimant [REDACTED 2] additionally submitted a certificate of name change, confirming that he changed his name from [REDACTED] to [REDACTED 2] on 29 July 1943.

Claimant [REDACTED 1] indicated that she was born on 30 December 1923 in Vienna. Claimant [REDACTED 2] indicated that he was born on 19 November 1921 in Vienna.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by [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 Steiner, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one demand deposit account and one custody account, numbered L 46474. The Bank's record further indicates that the custody account was closed on 29 March 1938, and that the demand deposit account was closed on 31 March 1938. The Bank's record does not indicate the value of the accounts. 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, 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 Steiner, numbered 50837. According to these documents, Dr. Max Steiner, who was born on 31 August 1894, was the owner of a clothing factory named *Demes*, located at Stiftsgasse 6, in Vienna. The records contain a letter submitted in the name of the company *Demes* to the office in charge of registering and administering Jewish-owned property (the "*Vermögensverkehrsstelle*"), requesting an extension of the registration deadline on behalf of Dr. Max Steiner, explaining that he was traveling abroad for business. The records also contain a subsequent letter from Dr. Max Steiner, stating that he did not authorize the request for an extension, and that he believed neither he nor his company was in possession of any property requiring registration. The records further indicate that, on 27 July 1938, the *Vermögensverkehrsstelle* ordered a further investigation as to whether Dr. Max Steiner possessed property worth 5,000.00 Reichsmarks. In addition, the records contain a letter, dated 17 September 1938, submitted on behalf of the company *Demes* by Wenzel Nikodym, stating that

he was the only employee of the company, and that he was Aryan. In this letter, the employee indicates that he was ordered to appear before Nazi authorities (*Wirtschaftspolizei*) to provide further details about the company and about Dr. Max Steiner. The letter also provides additional information about the company, indicating that the company expanded between 1933 and 1938, but that sales had decreased dramatically in 1938. Finally, the records contain a letter from the police's criminal investigation department (*Staatliche Kriminalpolizei*), summarizing the letter submitted by the employee. The records do not specify the value of any assets owned by Dr. Max Steiner, nor do they mention 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. The Claimants' father's name and country of residence match the published name and country of residence of the Account Owner. The Claimants identified their father's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

In support of their claims, the Claimants submitted documents, including their birth certificates, indicating that Maximilian Steiner was their father, and that both Claimants were born in Vienna, 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 city of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence than the country of residence of the Account Owner.

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, and that he fled Austria after the *Anschluss*. The CRT notes that the 1938 Census record regarding the Account Owner indicates that Nazi authorities conducted an investigation into his assets in 1938.

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, identifying

Maximilian Steiner as their father. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the custody account was closed on 29 March 1938, and the demand deposit account was closed on 31 March 1938, several weeks after the *Anschluss*, when the Account Owner was still residing in Vienna; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his 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 Claimants. First, the claims are 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 accounts.

Amount of the Award

In this case, the Account Owner 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 current value of the account being awarded. Based on 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"), and the average value of a custody account was SF 13,000.00. 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 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, Claimant [REDACTED 1] and Claimant [REDACTED 2] are the Account Owner's children. 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
29 December 2005