

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] and [REDACTED 3]

in re Accounts of Bernhard Steinhart

Claim Numbers: 776567/AC; 776568/AC¹

Award Amount: 1,115,201.13 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Bernhard Steinhart (the “Account Owner”), over which Irma Steinhart (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (“Bank 1”), and to the unpublished accounts of the Account Holder at the Zurich branch of [REDACTED] (“Bank 2”) (together, the “Banks”).

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 two Initial Questionnaires (“IQs”) identifying the Account Owner as Bernhard Steinhart, who was the husband of his mother’s paternal cousin. In a telephone conversation with the CRT on 11 November 2004, the Claimant indicated that his relative was born around the 1880s in Austria or Czechoslovakia, and was married to Irma Steinhart. The Claimant indicated that his relative, who was Jewish, was a retired director of a Czechoslovakian coal mining company, and that he and his wife resided in Vienna, Austria. The Claimant explained that his mother, [REDACTED], née [REDACTED], was the daughter of [REDACTED] and [REDACTED], and that [REDACTED] had a sister, who was the mother of Irma Steinhart. The Claimant stated that he and his family spent time with Bernhard and Irma Steinhart in their Vienna home, and that the Steinharts had one daughter, [REDACTED], who died in an avalanche while traveling in 1938. According to information provided by the Claimant, Bernhard and Irma Steinhart had gold and money in accounts in Switzerland, the

¹ [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted two Initial Questionnaires (“IQs”), numbered ENG-0250030 and ENG-0250033, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers 776567 and 776568, respectively.

Steinharts were subjected to criminal investigation and prosecution because they had not reported these assets to the Nazi authorities in 1938. As part of the proceeding, they were forced to repatriate these assets to Austria. The Claimant indicated that his mother informed him that Bernhard and Irma Steinhart were later driven to suicide by the Nazi persecution. The Claimant explained that his parents since passed away, and that he and his two cousins, [REDACTED 2] (formerly [REDACTED]) and [REDACTED 3], née [REDACTED], who are the children of his mother's brother, [REDACTED], are the only surviving members of the family.

The Claimant submitted documents in support of his claim. These documents include: 1) a copy of his mother's birth certificate, showing that [REDACTED] was born on 10 August 1891 in Vienna, and that her parents were [REDACTED] and [REDACTED], née [REDACTED]; 2) a copy of his parents' marriage certificate, showing that on 30 March 1924 in Vienna, [REDACTED], who was born on 18 June 1875 in Oponeschitz, Austria, and was the son of [REDACTED] and [REDACTED], née [REDACTED], married [REDACTED], who was born on 10 August 1891 in Vienna, and was the daughter of [REDACTED] and [REDACTED], née [REDACTED]; 3) a copy of his Nazi-issued identification card, showing that [REDACTED 1] was Jewish, and that he was born on 17 April 1925 in Vienna; and 4) a copy of his own German passport, issued on 20 November 1939, certifying that [REDACTED 1] was born on 17 April 1925 in Vienna, where he also resided.

The Claimant stated that he was born on 17 April 1925 in Vienna. The Claimant is representing his cousins, [REDACTED 2] (formerly [REDACTED]), and [REDACTED 3], née [REDACTED], who are siblings, and who were born on 21 June 1928 and 3 October 1922, respectively, both in Vienna.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Bernhard Steinhart (Steinhardt).

Information Available in the Banks' Records

Bank 1

Bank 1's records consist of a safe deposit box registry card, a safe deposit box closure card, a register of closed numbered accounts, a power of attorney form, and printouts from Bank 1's database. According to these records, the Account Owner was Bernhard Steinhart and the Power of Attorney Holder was *Frau* (Mrs.) Irma Steinhart, née Frey, the Account Owner's wife, who both resided at Bürggasse 6 in Vienna VII, Austria. Bank 1's records also make reference to another party, Dr. Reichstein, who resided in Zurich, Switzerland, but these records do not provide further information about Dr. Reichstein. Bank 1's records show that the Account Owner held a numbered account, the type of which is not indicated, under the designation 2353, and a safe deposit box number 1560. According to these records, the safe deposit box was opened on 30 May 1932, and the Account Owner instructed Bank 1 to hold all correspondence.

Bank 1's records indicate that the account of unknown type was closed on 26 April 1938 by way of transfer to another numbered account at Bank 1, held under the designation 66051, and the

safe deposit box was closed on 20 April 1938 by way of transferring its contents to a numbered account. The amount in the accounts on the dates of their closure is unknown. 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 provide any information to the CRT about numbered account 66051 or about the account to which the proceeds of the safe deposit box were transferred.

There is no evidence in Bank 1’s records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

Bank 2

The CRT notes that the auditors who carried out the ICEP Investigation did not report an account belonging to Bernhard Steinhart during their investigation of Bank 2. Information regarding the Account Owner’s assets at Bank 2 was obtained from the records of the Austrian State Archive.

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 Bernhard Steinhart, numbered 15687. According to these records, Bernhard Steinhart, who was born on 19 December 1872 and was married to Irma Frey, was a retired director of *Steinkohlen Verkaufs-Gesellschaft m.b.H.* in Vienna, where he worked for forty-six years, and resided at Bürggasse 6 in Vienna VII. These records indicate that Bernhard Steinhart was assessed “flight tax” (*Reichsfluchtsteuer*) of 25,969.00 Reichsmark (“RM”) on 25 April 1940. In these records, Bernhard Steinhart reported assets totaling RM 103,876, including holdings of numerous financial assets.

Although the records originally filed by Bernhard Steinhart do not report any Swiss bank accounts, they include documents pertaining to a criminal proceeding prosecuted by the Nazi regime against Bernhard Steinhart for his failure to report assets held outside the Reich, including assets held in Switzerland. The records include both the original charge lodged by the Foreign Exchange Search Office (*Devisenfahndungsstelle*) on 27 January 1939 and the final verdict issued on 25 April 1939. According to these documents, an informer denounced Bernhard Steinhart for having failed to disclose assets he held outside the Reich. They further detail the charge as contravening in the first instance the Foreign Exchange Decree of 23 March 1938, according to which foreign-held assets had to be reported, and second, the 1938 Census Decree, which, as noted above, required Jews to report all assets they owned, regardless of where they were held. According to the charge, Bernhard Steinhart closed the accounts held in his own name in 1933 and transferred their content to an account newly opened under the name of [REDACTED], and that these assets were held at Bank 2 in Zurich. According to the charge, Steinhart then in a clear attempt to circumvent the foreign exchange regulations, and later the reporting requirements of the 1938 Census, transferred on 26 March 1938 all assets in the

account held under the name [REDACTED] to an account at Bank 2 held by Dr. Reichstein, a Zurich attorney (*Rechtsanwalt*). The transfer, according to the charge, was effected under oral instructions transmitted to the Bank via “the Jew Skall,” who resided in Prague and had been a co-director with Steinhart of the *Oberschlesische Kohlenhandels GMBH* in Vienna. The charge details the following assets held by Bernhard Steinhart at Bank 2 in Zurich, which apparently had been transferred to Dr. Reichstein’s account:

- 7% 1931 *Pester Ungarische Commerzialbank* mortgage bonds with a nominal value of 6,000.00 Swiss Francs (“SF”);
- 4% 1931 *Schweizer Bundesbahnen* bonds with a nominal value of SF 5,000.00;
- 4½% *New York Central R.R.C. 2013A* bonds with a nominal value of 2,000.00 United States Dollars (“US \$”);
- 1 gold bar, weight 12.6638 kilogram;
- SF 1,059.50 in cash.

The charge further states that the US securities, which had been deposited in New York, had been made available via the [REDACTED].

The verdict notes that, after his arrest, Bernhard Steinhart confessed to attempting to conceal his foreign-held assets and made them available to the authorities. He was sentenced for violation of the foreign exchange regulations and of the 1938 Census requirements to one year imprisonment, a fine of RM 40,000.00 and the forfeiture of the unreported assets.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s relative’s name and city and country of residence match the published name and city and country of residence of the Account Owner and the Power of Attorney Holder. The Claimant identified the relationship between the Account Owner and the Power of Attorney Holder, which matches unpublished information about the Account Owner contained in Bank 1’s records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes: a person named Bernhard Steinhart, and indicates that his date of birth was 19 December 1872, his place of birth was Holleschau, Czechoslovakia (now Holesov, Czech Republic), and his place of residence was Vienna, Austria; and a person named Irma Steinhart, and indicates that her date of birth was 17 October 1888, her place of birth was Bruenn,

Czechoslovakia (now Brno, Czech Republic), and her place of residence was Vienna, which matches the information about the Account Owner and the Power of Attorney Holder provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT also notes that the name Bernhard Steinhart appears only once 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 CRT further notes that the Claimant filed two IQs with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to Swiss bank accounts owned by Bernhard Steinhart and Irma Steinhart, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city of residence or spouse’s name than the city of residence and spouse’s name of the Account Owner.

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 the Nazi regime subjected him to criminal proceedings for breach of the foreign currency and asset reporting regulations, sentenced him to imprisonment and forced him to repatriate assets held in Switzerland, after which, the Account Owner and his wife, the Power of Attorney Holder, committed suicide under the pressure of further persecution. As noted above, persons named Bernhard and Irma Steinhart were included in the CRT’s database of victims. The CRT also notes that Austrian State Archives records confirm that the Nazi regime subjected the Account Owner to criminal proceedings, sentenced him to prison, confiscated his foreign-held and other assets and forced him to pay fines and discriminatory taxes.

The Claimants’ Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was the Claimant’s mother’s cousin’s spouse.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in Bank 1’s records; that the Claimant filed IQs with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information

which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of his mother's birth certificate and a copy of his parent's marriage certificate, which provide independent verification that the Claimant's relatives resided in Vienna. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his IQs.

There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant represents.

The Issue of Who Received the Proceeds

Bank 1's records indicate that the safe deposit box was closed on 20 April 1938, and that the account of unknown type was closed on 26 April 1938, both by way of transfer to other accounts. The records from the Austrian State Archives show that the assets held by the Account Owner at Bank 2 were discovered by the Nazi authorities and that they were repatriated and confiscated.

Given that the 1938 Census records show that the assets held by the Account Owner in a Swiss bank were discovered by the Nazi authorities, upon which discovery the Account Owner was tried and found guilty in criminal proceedings regarding his failure to comply with the foreign exchange regulations and the requirements of the 1938 Census; that the Account Owner lived in Austria until he committed suicide, and therefore could not have repatriated the accounts that had not been discovered without losing ultimate control over their proceeds; 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 Banks 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 (d), (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 Owner, the Power of Attorney Holder, 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 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 his mother's cousin's husband, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Bank 1's records indicate that the Account Owner held one safe deposit box and one account of unknown type. Additionally, according to the documents in the Austrian State Archive pertaining to the criminal proceedings prosecuted by the Nazi authorities against the Account Owner, as of 27 January 1939, the Account Owner held the following assets with Bank 2: 7% *1931 Pester Ungarische Commerzialbank* mortgage bonds, nominal value SF 6,000.00; 4% *1931 Schweizer Bundesbahnen* bonds, nominal value SF 5,000.00, 4½% *New York Central R.R.C. 2013A* bonds nominal value US \$2,000.00; 1 bar of gold, weighing 12.6638 kilogram; and SF 1,059.50 in cash.

With respect to the safe deposit box and the account of unknown type held at Bank 1, 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 safe deposit box was SF 1,240.00, and the average value of an account of unknown type was SF 3,950.00. Thus, the total 1945 average value of the accounts at issue is SF 5,190.00. 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 an amount of SF 64,875.00 for this account.

With respect to the Account Owner's assets held at Bank 2, the CRT determines that as of 25 April 1939, the Account Owner's assets at Bank 2 were valued as follows: the nominal value of the 7% *1931 Pester Ungarische Commerzialbank* mortgage bonds was SF 6,000.00;² the market value of the 4% *1931 Schweizer Bundesbahnen* bonds was SF 5,287.50;³ the nominal value of the 4½% *New York Central R.R.C. 2013A* bonds was US \$2,000.00, which at the time was equivalent to SF 8,740.00;⁴ the value of the bar of gold, weighing 12.6638 kilogram, was SF 62,939.09,⁵ and the value of the Account Owner's cash holdings was SF 1,059.50, for a combined historic value of SF 84,026.09 for the bonds, gold, and cash held by the Account Owner at Bank 2 and recorded in the documents held at the Austrian State Archive. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 1,050,326.13 for these assets.

Consequently, the total award amount in this case is SF 1,115,201.13.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with

² In cases in which the CRT is unable to determine the market value of securities, it relies on the nominal value of the securities in determining their value.

³ In determining the market value of these securities, the CRT used the official values of these securities as quoted on the Zurich stock exchange in December 1938.

⁴ When making currency conversions, the CRT uses official exchange rates.

⁵ In determining this value, the CRT used the official market value of gold in 1945 of SF 4,970.00 per kilogram.

principles of fairness and equity. In this case, the Claimant is representing his cousins, [REDACTED 3] and [REDACTED 2], who are siblings. The CRT deems that it is consistent with principles of fairness and equity that the total award amount be divided, in equal shares by representation. Accordingly, the Claimant is entitled to one-half of the total award amount, and [REDACTED 3] and [REDACTED 2] are each entitled to one-quarter 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
30 December 2004