

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Anna Stiassny

Claim Number: 224225/PY

Award Amount: 25,680.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the account of Anna Stiassny (the “Account Owner”) at the Zurich 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her maternal grandmother, Anna (Chane) Stiassny, née [REDACTED], who was born on 27 March 1888 in Rosniatow, Poland and was married to [REDACTED] on 12 February 1911 in Vienna, Austria. The couple had one child, [REDACTED], née [REDACTED], the Claimant’s mother. Anna and [REDACTED] Stiassny were later divorced. The Claimant stated that her grandmother, who was Jewish, was a businesswoman who resided at Ungarnstrasse 6 in Vienna III. The Claimant stated further that Anna Stiassny owned the company *G. Gelobter* in Vienna, which sold meat products. According to the Claimant, her grandmother lost her right to trade in the main market hall in Vienna on 4 April 1938. The Claimant added that Anna Stiassny fled Austria to Prague, Czechoslovakia sometime in 1938. In Prague, Anna Stiassny married a [REDACTED], and they remained there until 1940. The Claimant stated that her grandmother then went to Israel, where she remained until 1948. In 1948, Anna Stiassny returned to Bucharest, Romania where she stayed until 1960, when she returned to Vienna. She died in Vienna on 9 March 1962. The Claimant added that Anna Stiassny’s daughter, [REDACTED], died on 25 January 1999. In support of her claim, the Claimant submitted her grandmother’s birth and death certificates, her mother’s birth and death certificates, and her own birth certificate. In addition, the Claimant also submitted the Austrian census form, numbered 34497, completed and signed by Anna Stiassny on 16 July 1938, which indicates that her grandmother resided at Ungarnstrasse 6, Vienna III. The Claimant indicated that she was born on 31 August 1937 in Vienna.

Information Available in the Bank Records

The bank records consist of printouts from the Bank's database and a sheet regarding the account of Anna Stiassny from the Zurich regional files relating to the 1945 Swiss freeze of German assets. According to these records, the Account Owner was Anna Stiassny, who resided at Ungarnstrasse 6 in Vienna III. The bank records indicate that the Account Owner held a demand deposit account which was frozen on 17 February 1945 in the Swiss Freeze of German Assets. The amount in the account as of this date was 39.50 Swiss Francs. The bank records indicate that the account was unfrozen on 18 August 1955 and transferred to a suspense account on the same day. The amount in the account on the date of its transfer was 30.00 Swiss Francs and the account remains open and dormant today.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Chane Stiassny. These records include an Austrian census form for Chane Stiassny, numbered 34497, dated 16 July 1938. These records indicate that Chane Stiassny was Jewish, was born on 27 March 1888, and was separated from her husband. The records indicate that Chane Stiassny resided at Ungarnstrasse 6, Vienna III and owned a company named *G. Gelobter* which sold meat products. The records also show that Chane Stiassny owned real estate at Neulingasse 28 in Vienna III worth approximately 140,000.00 Reichsmarks (1938 value). The Austrian census records also show that the company *G. Gelobter* was valued at 6,488.20 Reichsmarks (1938 value), that Chane Stiassny owned bonds worth approximately 8,533.00 Reichsmarks (1938 value), and that her jewelry had already been confiscated by the Gestapo as of 16 July 1938. 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. Her grandmother's name and city of residence match the published name and city of residence of the Account Owner. The Claimant identified her grandmother's street address in Vienna, which matches unpublished information about the Account Owner contained in the bank records and also matches information contained in the Austrian State Archives. Furthermore, the CRT notes that this is the only claim that matches to this account.

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 she was deprived

of her right to trade in the main market hall in Vienna, had her assets confiscated by the Gestapo, and eventually fled Austria in 1938.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting her mother's and her own birth certificate.

The Issue of Who Received the Proceeds

The bank records indicate the account was transferred to a suspense account, where it remains open and dormant today.

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 23 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her grandmother, and that relationship justifies an Award. Finally, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

The bank records indicate that the value of the demand deposit account as of 17 February 1945 was 39.50 Swiss Francs. According to Article 35 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 25,680.00 Swiss Francs.

Initial Payment

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account value, and 65% of the total award amount is 16,692.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to

which she 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

December 31, 2002

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee

of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).