

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Stephen M. Harnik

in re Account of Emil Strauss

Claim Numbers: 401396/MBC; 401403/MBC;¹ 501419/MBC

Award Amount: 312,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the published accounts of *Max Strauss GmbH* and Emil Strauss.² This Award is to the published account of Emil Strauss (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 Claim Forms identifying the Account Owner as his father, Emil Strauss, who was born on 20 January 1887 in Graz, Austria, and was married to [REDACTED]. The Claimant indicated that his father, who was Jewish, was a lawyer and a businessman who owned a company, *M. Strauss GmbH, Kalk- und Schotterwerk* (lime and gravel works) in Peggau, Austria, as well as a law firm, *Biro & Strauss*, in Graz. According to the Claimant, his father was one of three siblings: [REDACTED], Emil Strauss, and [REDACTED], née [REDACTED], who were the children of [REDACTED] and [REDACTED]. The Claimant indicated that his parents had two children: the Claimant and his twin brother, [REDACTED], who were both born in 1922. The Claimant stated that his family lived at Schmiedgasse 31 and Triesterstrasse 102 in Graz before the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), and that his father was forced to report his assets pursuant to a Nazi decree of 26 April 1938 that 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”). The Claimant indicated that his family fled Austria for Haifa,

¹ The Claimant submitted four Claim Forms, two of which were registered under the Claim Numbers 401403 and 401574. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 401403.

² The CRT will treat the claim to the account of *Max Strauss GmbH* in a separate determination.

Palestine (now Israel) in 1939, and that they subsequently emigrated to New York, the United States, in 1941. According to the Claimant, his brother, [REDACTED], died in 1944 while serving in the United States Army in Italy, and his mother and father died in 1965 and 1972, respectively, both in New York.

In support of his claim, the Claimant submitted: (1) a copy of the 1938 Census declaration submitted by his father, which is described in detail below; (2) a copy of his uncle's obituary, indicating that [REDACTED], the son of [REDACTED] and [REDACTED], died in 1906, and that he was survived by his siblings, [REDACTED], née [REDACTED], and Emil Strauss; and (3) a copy of his family tree.

The Claimant indicated that he was born on 5 June 1922 in Graz.

Information Available in the Bank's Records

The Bank's record submitted by 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") consists of a registry of closed numbered accounts. According to this record, the Account Owner was Dr. Emil Strauss, who resided in Graz. The Bank's record indicates that the Account Owner held a numbered account with a designation 61860. This record further indicates that the account was closed on 7 April 1938 to be re-opened as a named (and not numbered) account.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of lists of custody account holders living in Austria whose accounts were closed and two customer cards.

These records indicate that account 61860 was a custody account. These records further indicate that securities worth 200,000.00 Swiss Francs ("SF") were sent from the account after its closure to Prof. [REDACTED] in New York, New York, the United States, on 8 April 1938. According to these records, additional unnamed securities worth SF 25,000.00 were sent from another custody account owned by the Account Owner, numbered 41899, to the *Zentral-Europäische Länderbank* in Vienna on 21 April 1938, and that account was closed on 22 April 1938. A notation on the Bank's records, dated 27 April 1938, indicates that account number 41899 was never effectively opened ("*Dieses Depot wurde effektiv nicht geöffnet*"), suggesting that the account was opened and used solely for the purpose of transferring the securities to the *Zentral-Europäische Länderbank*.

Information Available from the Austrian State Archive

As indicated above, in the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Emil Strauss, numbered 15335.

These records indicated that Emil Strauss was born on 20 January 1887 in Graz, that he was married to [REDACTED], that he resided at Schmiedgasse 31 in Graz, and that he was a lawyer and the owner of *M. Strauss, Kalk- und Schotterwerk* in Peggau. According to these records, Emil Strauss owned, in addition to his business assets, a house at Triesterstrasse 102 in Graz, as well as substantial financial assets. Correspondence in the file indicates that Emil Strauss was interned for four weeks at the concentration camp at Dachau, from which he returned to Graz on 8 December 1938; that he was effecting his emigration as a participant of the *Gildemeester Aktion*; and that by 9 January 1939 he had paid approximately 110,000.00 Reichsmark (“RM”) in flight tax (*Reichsfluchtsteuer*). 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, 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 three claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant’s father’s name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant also identified his father’s professional title and the name of his father’s sister, which match unpublished information contained in the Bank’s records about the Account Owner and the party to whom one of the Account Owner’s accounts was transferred.

In support of his claims, the Claimant submitted documents, including his father’s 1938 Census declaration and his uncle’s obituary, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank’s records as the name and city of residence of the Account Owner. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city and country of residence than the city and country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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 he fled his home and business in Austria soon after the *Anschluss*. The CRT notes that the Account Owner’s 1938 Census file shows that he was interned in the concentration camp at Dachau in 1938.

The Claimant's 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 father. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of his father's 1938 Census declaration and his uncle's obituary, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Graz. 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 of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Forms.

The Issue of Who Received the Proceeds

In this case, the Bank's records indicate that the Account Owner made two transfers. These records indicate that securities worth SF 200,000.00 were transferred to Prof. [REDACTED] in New York. Given that the transfer was made to a country that was not under Nazi control and that the Account Owner emigrated to the United States in 1941, the CRT concludes that the transfer was made at the direction of, and for the benefit of, the Account Owner, and that the Account Owner or a person authorized by him received these securities. Furthermore, the CRT notes that the Claimant provided a copy of his uncle's obituary, which indicates that his father's sister's name was [REDACTED], née [REDACTED], which substantially matches the name of the person to whom the securities were transferred.

With respect to the transfer of securities worth SF 25,000.00 that was made under account number 41889 on 21 April 1938, given that the Bank's records indicate that the securities were transferred to the *Zentral-Europäische Länderbank* in Vienna, that the Account Owner resided in Austria and therefore could not have repatriated the accounts without losing ultimate control over its proceeds, the CRT determines that it is plausible that these securities were confiscated by the Nazi authorities. Indeed, the fact that the Account Owner was interned at Dachau and sought to emigrate as a participant of the *Gildemeester Aktion*, which required the transfer of the bulk of a participant's assets to Nazi authorities, supports this conclusion.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are 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 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 securities transferred under account number 41899.

Amount of the Award

In this case, the Award is for securities transferred to the *Zentral-Europäische Länderbank* in Vienna. The Bank's records indicate that the value of these securities as of 21 April 1938 was SF 25,000.00. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 312,500.00.

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
23 June 2006