

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Leo Strauss

Claim Numbers: 215665/RS; 201563/RS

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished account of Leo Strauss (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).¹ The account awarded is from the Total Accounts Database (“TAD”) at 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 Form and an Initial Questionnaire, and her sister, Claimant [REDACTED 2], submitted a Claim Form, an Initial Questionnaire, and an ATAG Ernst & Young claim form, identifying the Account Owner as their father, Leo Karl Strauss, who was born on 11 June 1885 in Munich, Germany. The Claimants stated that their father, who was Jewish, was married to [REDACTED], née [REDACTED], who was not Jewish, and that the couple had three daughters, including the Claimants. The Claimants indicated that their other sister, [REDACTED], died in 1976, and that she had one son. According to the Claimants, their father was a grain merchant who assumed the successful grain import-export and wholesale business *Ernst Strauss Getreide und Futtermittel* started in 1889 by his father, [REDACTED].

¹ 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”), the names Leo Strauss and Leopold Strauss appear. Upon careful review, the CRT has determined that these account owners are not the same person addressed in the current decision and, consequently, the Claimants did not identify these other account owners as their relative. The CRT notes that these accounts were held at different Swiss banks than the account awarded here.

The Claimants indicated that their father was the sole owner of that company, and that he had worked in the grain industry in North and South America, as well as in Germany. The Claimants also stated that their father took numerous trips to Switzerland, and that their parents often spoke of money held by their father in Swiss bank accounts. The Claimants provided two addresses at which their father had lived and worked in Munich, namely Innstrasse 9a, and Holbeinstrasse 14.

The Claimants stated that in 1938, the family's passports were confiscated by the Nazis. Later in 1938, according to Claimant [REDACTED 2], her father was imprisoned in Dachau concentration camp; her mother, however, who was not Jewish, was able to use some of the family's assets to rescue her husband from Dachau, and he was released. Claimant [REDACTED 2] indicated that following her father's release, he and his daughters spent some time hiding from the Nazis. Subsequently, the Claimants stated, their father was interned in the Milbertshofen labor camp in Munich. Between 1938 and 1945, the Claimants indicated, their father was forced by the Nazi authorities to serve in various forced labor positions, which included sweeping and shoveling snow from the streets of Munich, shoveling coal at the Munich train station, dishwashing in the famous Nazi-frequented *Hofgartencafé-Annast*, cleaning toilets, and working for the *Erich Scheibe Textilgrosshandlung* textile company and the *Ludwig Petersen Werkstoffverarbeitungs- und Maschinenbauwerk* company. According to Claimant [REDACTED 1], her father was frequently beaten by the authorities during this period. The Claimants indicated that their father survived the War, and that he died on 19 May 1958 in Munich.

In support of her claim, Claimant [REDACTED 1] submitted a copy of her father's personal letterhead, which names him as Leo Strauss of Innstrasse 9a, Munich 27; and copies of her father's corporate letterhead, which also provides an address for the *Ernst Strauss* company of Innstrasse 9a, Munich 27.

In support of her claim, Claimant [REDACTED 2] submitted copies of: (1) her father's birth certificate, indicating that Leo Karl Strauss was born on 11 June 1885 in Munich, and that both of his parents were Jewish; (2) her own birth certificate, indicating that she was born on 3 May 1933, and that her father's name was Leo Karl Strauss, businessman (*Kaufmann*); (3) her father's Third Reich identity card, which indicates that Leo Karl Strauss, businessman, was born on 11 June 1885; (4) her father's corporate business card, indicating that *Ernst Strauss Import - Export* had an address of Innstrasse 9a; (5) and a copy of her father's forced labor booklet (*Arbeitsbuch*), indicating that Leo Israel Strauss had three children, born in 1926, 1933, and 1935 respectively; that he was born on 11 June 1885; that he resided at Innstrasse 9a in Munich; and that he had worked at the companies listed above as a forced laborer.

Claimant [REDACTED 1] indicated that she was born on 25 June 1926 in Munich, and Claimant [REDACTED 2] indicated that she was born on 3 May 1933 in Munich.

Information Available in the Bank's Records

The Bank's records consist of two printouts from the Bank's database of closed bank accounts and one account opening card. According to these records, the Account Owner was Leo Strauss of Munich, Germany. The account opening card contains three Munich addresses for the

Account Owner: Türkenstrasse 27, Innstrasse 9a, and Holbeinstrasse 14/2. The Bank's records indicate that the Account Owner held a custody account. According to the records, the account was opened in 1930, and was closed on 31 July 1939. The amount in the account on the date of its closure is unknown.

There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database ("AHD") at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,² are composed of 1.9 million savings accounts with unknown values or a 1930-1940s value of 250.00 Swiss Francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is, within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

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, two street addresses, and city and country of residence match the unpublished name, street addresses, and city and country of residence of the Account Owner.

In support of her claim, Claimant [REDACTED 1] submitted documents, including her father's personal letterhead, which names him as Leo Strauss of Innstrasse 9a, Munich 27; and copies of her father's corporate letterhead, which also provides an address for the company of Innstrasse 9a, Munich 27, providing independent verification that the person who is claimed to be the Account Owner had the same name, and resided at the same street addresses, and in the same

² These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

town, recorded in the Bank's records as the name, street addresses, and city of residence of the Account Owner.

In support of her claim, Claimant [REDACTED 2] submitted documents, including: (1) her father's birth certificate, indicating that Leo Karl Strauss was born on 11 June 1885 in Munich; (2) her own birth certificate, indicating that she was born on 3 May 1933, and that her father's name was Leo Karl Strauss; (3) her father's Third Reich identity card, which indicates that Leo Karl Strauss was born on 11 June 1885; (4) her father's corporate business card, indicating that *Ernst Strauss Import - Export* had an address of Innstrasse 9a; (5) and a copy of her father's forced labor booklet, indicating that Leo Israel Strauss was born on 11 June 1885, and that he resided at Innstrasse 9a in Munich. All of these documents provide independent verification that the person who is claimed to be the Account Owner had the same name, and resided at the same street address and in the same town recorded in the Bank's records as the name, street address, and city of residence of the Account Owner.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city of residence than the city 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 Claimant [REDACTED 2] indicated that her father was imprisoned in Dachau concentration camp in 1938. The Claimants both indicated that following their father's release from Dachau, their father spent periods of time in hiding from the Nazis. They also indicated that starting in 1938, their father was forced to act as a slave laborer in Munich, during which time he was often beaten, and that he was interned in the Milbertshofen labor camp. Claimant [REDACTED 2] also submitted her father's forced labor booklet (*Arbeitsbuch*) indicating a number of the different types of work that her father was forced to perform in Munich between 1938 and 1945.

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 Claimant [REDACTED 2]'s birth certificate, indicating that she was born on 3 May 1933, and that her father's name was Leo Karl Strauss; and a copy of the Claimants' father's forced labor booklet, indicating that Leo Israel Strauss had three children, born in 1926 (the year in which Claimant [REDACTED 1] was born), 1933 (the year in which Claimant [REDACTED 2] was born), and 1935 respectively.

The CRT notes that the Claimants indicated that they have another surviving relative, but that because he is not represented in the Claimants' claims, the CRT will not treat his potential entitlement to the Account Owner's account in this decision.

The CRT further notes that the Claimants both identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that Claimant

[REDACTED 1] submitted a copy of Leo Strauss' personal and corporate letterhead, indicating his street address as Innstrasse 9a, Munich. 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Form.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him; that the account was closed on 31 July 1939, while the Account Owner was forced to perform slave labor, and that the Account Owner would not have been able to repatriate his assets at that time without having them confiscated by Nazi authorities; that the Account Owner and his heirs would not have been 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 (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 account.

Amount of the Award

In this case, the Account Owner held 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 the 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 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. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total award amount, and Claimant [REDACTED 2] is entitled to one-half 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 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
10 November 2007