

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED],
also acting on behalf of [REDACTED], [REDACTED] and [REDACTED],
represented by [REDACTED]

in re Accounts of Professor Doctor Karl Weigl and Gabriele Weigl

Claim Number: 222837/EZ

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Karl Weigl. This Award is to the accounts of Professor Doctor Karl Weigl (“Account Owner Karl Weigl”) and Gabriele Weigl (“Account Owner Gabriele Weigl”) (together the “Account Owners”) at the Zurich branch of [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 one of the Account Owners as his uncle, Professor Doctor Karl Weigl, who was married to his aunt, [REDACTED], née [REDACTED]. According to the information submitted by the Claimant and the Claimant's representative, Karl Weigl was a well-known composer and professor of music,¹ who was born in Vienna, Austria, on 6 February 1881 to [REDACTED] and Gabriele Weigl, née Stein, and was married to his first wife, [REDACTED], in 1910 in Vienna, Austria, with whom he had one daughter, [REDACTED], and whom he divorced in 1913; and Karl Weigl was later married to [REDACTED], née [REDACTED], a pianist and composer, in 1921, and in 1926 they had a son, [REDACTED].

¹ From 1904 to 1906, Karl Weigl served as a rehearsal coach at the Vienna Opera under [REDACTED]'s direction. In 1910, his Symphony Number 1 was premiered in Zurich, Switzerland. Karl Weigl produced a large number of songs and choral works, and he continued to compose throughout his life. In 1918, Karl Weigl was made a Professor of Theory and Composition at the *Vienna Conservatorium*. Karl Weigl gained increasing recognition for his music during the 1920s to 1930s. He was awarded many prizes including: the *Mendelssohn Club of Philadelphia Prize*, the *Gesellschaft der Musikfreunde's Beethoven Prize*, and the *Prize of the City of Vienna*. Several of Karl Weigl's orchestral works were performed by the Vienna Philharmonic.

The Claimant's representative explained that after the Nazis came to power in Germany in 1933, life became increasingly difficult for Karl Weigl because his music was identified as being *non-Aryan*, and his performances were banned, his works were dropped by publishers and he lost his teaching positions. In October 1938, after the annexation of Austria (the "*Anschluss*") and with the help of his American friends, Karl Weigl fled Austria, together with his wife and son, and immigrated to New York, the United States, where he died on 11 August 1949.² The Claimant's representative added that [REDACTED] was born in Temesvar, Austria, and died in 1904; Gabriele Weigl was born on 22 July 1859 and died in September 1938 in Austria; [REDACTED] was born on 11 September 1894 and died in December 1982 in New York, the United States; and [REDACTED] died on 1 August 1982.

The Claimant is representing Karl Weigl's grandchildren in these proceedings: [REDACTED], who was born on 8 May 1957; [REDACTED], who was born on 23 May 1951; and [REDACTED], n e [REDACTED], who was born on 4 July 1949, all of whom are the children of [REDACTED]. The Claimant added that he did not have any information about [REDACTED], the daughter of Karl Weigl from his first marriage.

In support of his claim, the Claimant provided the CRT with several website addresses, including a Yale University website,³ which provides in depth biographical information about Karl Weigl, including the persecution by the Nazis, and states that he was married to [REDACTED], that his son was [REDACTED], and his grandchildren are [REDACTED], [REDACTED], and [REDACTED]. The Claimant also provided copies of [REDACTED]'s and [REDACTED]'s birth certificates, which indicate that they are the children of [REDACTED] of Vienna, Austria. The Claimant indicated that he was born in Vienna, Austria, on 3 March 1924.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were *Frau* (Mrs.) Gabriele Weigl and *Prof. Dr.* (Professor Doctor) Karl Weigl, who resided in Vienna, Austria. The Bank's record indicates that the Account Owners held a custody account, numbered L 43765, which was opened on 15 June 1931, and a demand deposit account, which was opened on 10 June 1931. The demand deposit account was closed on 2 April 1938 and the custody account was closed on 10 April 1938. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

² After the death of Karl Weigl, [REDACTED] devoted much energy to the promotion of his memory and performance of his music. In 1966, the *Karl Weigl Memorial Fund* was established through the efforts of [REDACTED] and Karl Weigl's students and colleagues. Other funds supporting the performances and recordings of Karl Weigl's music were established at Baylor University, the Eastman School of Music, and the Aspen Music Festival. [REDACTED] preserved Karl's papers, music manuscripts, and published music through a bequest to [REDACTED] and his wife, [REDACTED], and donations to the New York Public Library, the Moldenhauer Archive, the Fleischer Collection, and the Sibley Library of the Eastman School of Music.

³ See <http://webtext.library.yale.edu/xml2html/music/wgl-d.htm> and www.artis-quartett.at/d/weigl.html.

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. No records concerning the assets of a person named Professor Doctor Karl Weigl were found in the records of the Austrian State Archives (Archive of the Republic, Finance). In the records of the Austrian State Archives (Archive of the Republic, Finance) there are documents concerning the assets of Gabriele Weigl, numbered 15024. According to these documents Gabriele Weigl was the widow of [REDACTED], who worked as a banker. These documents also state that Gabriele Weigl had bank accounts and a pension in Austria. There is no indication in these records that Gabriele Weigl had a Swiss bank account.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His uncle's name and country of residence match the published name and country of residence of Account Owner Karl Weigl. The Claimant stated that his uncle resided in Vienna, which matches unpublished information contained in the Bank's record. The Claimant also provided his uncle's title, *Professor Doctor*, which matches unpublished information contained in the Bank's record. Additionally, the Claimant and the Claimant's representative provided the name of Karl Weigl's mother, Gabriele Weigl, which matches the unpublished name of Account Owner Gabriele Weigl. Also, the Claimant and his representative identified the spouse of Account Owner Gabriele Weigl as [REDACTED], which matches the information in the Austrian State Archives. In support of his claim, the Claimant provided the CRT with several website addresses, including a Yale University website, which details the biographical information about the life and family of Karl Weigl, and states that he was married to [REDACTED], that his son was [REDACTED], and his grandchildren are [REDACTED], [REDACTED], and [REDACTED]. The Claimant also provided copies of [REDACTED]'s and [REDACTED]'s birth certificates, which indicate that they are the children of [REDACTED] of Vienna, Austria. Furthermore, the CRT notes that the other claims to these accounts were disconfirmed because the other claimants provided inconsistent information about the Account Owners as contained in the Bank's records. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Karl Weigl was a Victim of Nazi Persecution. The Claimant's representative explained that after the Nazis came to power in Germany in 1933, life became increasingly difficult for Karl Weigl because his music was identified as being *non-Aryan*, and his performances were banned, his works were dropped by publishers and he lost his teaching positions. In October 1938, after the annexation of Austria (the "*Anschluss*") and with the help of his American friends, Karl Weigl fled Austria, together with his wife and son, and immigrated to New York, the United States, where he died on 11

August 1949. Also, in support of his claim, the Claimant provided the CRT with several website addresses which details the persecution of Karl Weigl by the Nazis. While the Claimant did not provide information about the persecution of Account Owner Gabriele Weigl, as a resident of Vienna after the *Anschluss*, she was a Victim of Nazi persecution, and given that there are Austrian State Archive records concerning the assets of Gabriele Weigl, which by decree on 26 April 1938 the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit, the CRT concludes that she was also a Victim of Nazi Persecution.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is the nephew of Professor Doctor Karl Weigl. In support of his claim, the Claimant provided the CRT with several website addresses, including a Yale University website, which details the biographical information about the life and family of Karl Weigl, and states that he was married to [REDACTED], that his son was [REDACTED], and that the represented parties, the Account Owner's grandchildren, are [REDACTED], [REDACTED], and [REDACTED]. The Claimant also provided copies of [REDACTED]'s and [REDACTED]'s birth certificates, which indicate that they are the children of [REDACTED] of Vienna, Austria. The Claimant is representing [REDACTED], [REDACTED] and [REDACTED], the children of [REDACTED], the grandchildren of Karl Weigl, and the great-grandchildren of Gabriele Weigl. The CRT notes that the Claimant identified the unpublished name of Account Owner Gabriele Weigl and other unpublished information contained in the Bank's record including the Account Owners' city of residence and Account Owner Karl Weigl's title. The CRT further notes that there are no other claims to these accounts. Taking all of this information into consideration, the Claimant has plausibly demonstrated that he and the parties whom he represents are related to the Account Owners.

The Issue of Who Received the Proceeds

Given that the Account Owners' accounts were closed after the *Anschluss* on 2 April 1938 and 10 April 1938; that Nazi confiscatory legislation was in effect at the time the accounts were closed; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found numerous such confiscations of Swiss bank accounts occurred at this time; that Account Owner Gabriele Weigl remained in Austria until her death in September 1938 and Account Owner Karl Weigl remained in Austria until October 1938, and both of these dates are several months after the *Anschluss* and the closure dates of their accounts; that Account Owner Karl Weigl was targeted by the Nazis as early as 1933 when the Nazis came to power in Germany because his music was identified as being *non-Aryan*, and his performances were banned and he lost his teaching positions; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their closed 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 (a), (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 Owners 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 Karl Weigl's grandchildren. 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 Owners were the grandfather and great-grandmother of [REDACTED], [REDACTED] and [REDACTED], and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts. Further, the CRT notes that the parties being represented by the Claimant, as the Account Owners' grandchildren, have a better entitlement to the accounts than the Claimant.

Amount of the Award

In this case, the Account Owners held one custody account and one demand deposit 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, and the average value of a demand deposit account was 2,140.00 Swiss Francs. Thus, the total 1945 average value of the accounts at issue is 15,140.00 Swiss Francs. 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 the total award amount of 189,250.00 Swiss Francs.

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, the Claimant is representing Karl Weigl's three grandchildren, who are Gabriele Weigl's great-grandchildren, in these proceedings. Accordingly, as the three grandchildren and great-grandchildren of the Account Owners, [REDACTED], [REDACTED], and [REDACTED] are each entitled to one-third of the total award amount. The Claimant, who is not a direct descendant of either of the Account Owners, is not entitled to a portion 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 claim 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
8 April 2004