

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED]

in re Accounts of Selma Weiler

Claim Number: 212698/PY

Award Amount: 325,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Selma Weiler (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 his paternal aunt by marriage, Selma Weiler, née Wagowski, who was born on 6 November 1902 in Ulm, Germany, and was married in Germany to Benny Weiler, who was the brother of the Claimant’s father. According to the Claimant, his aunt, who was Jewish, resided with her husband at Rothenbühlerweg in Saarbrücken, Germany, until 1934. The Claimant stated that his aunt was a housewife, that her husband was an attorney, and that they did not have any children. The Claimant further stated that Selma and Benny Weiler fled Germany in 1934 to Sarreguemines, France, where they resided at 27 Rue de Maréchal Joffre. According to the Claimant, Selma and Benny Weiler died in a car accident on 13 April 1935 in Verdun, France. The Claimant submitted the birth certificate of Benny Weiler, indicating that he was born in Saarbrücken; the death certificate of Benny Weiler, indicating that he was married to Selma Weiler, née Wagowski, and that his death was reported by his brother [REDACTED]; the death certificate of Selma Weiler, indicating that she was married to Benny Weiler; and excerpts from his official family book, indicating that his father was [REDACTED] and that [REDACTED], Benny and [REDACTED] Weiler were brothers.

The Claimant indicated that he was born on 24 August 1920 in Saarbrücken, Germany. The Claimant is representing [REDACTED], née [REDACTED], his sister-in-law, who is the widow

of his deceased brother, [REDACTED], and who was born on 1 October 1930 in Strasbourg, France.

Information Available in the Bank's Records

The Bank's records consist of three customer cards, a power of attorney form dated 10 March 1928, a consent form of the same date signed by the Account Owner's husband granting permission to his spouse to open an account in her own name, a custody account opening contract, as well as printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) Selma Weiler, née Wagowski, and the Power of Attorney Holder, as of 10 March 1928, was attorney Dr. *iur.* (attorney) Benny Weiler, the Account Owner's husband, who resided in Saarbrücken, Germany, at August Kleinstrasse 12 in 1928 and subsequently at Rotenbühlerweg 25. The Bank's records indicate that the Account Owner held four custody accounts, numbered 5814, 5879, 25756 and 26903, all opened on unknown dates. The Bank's records also indicate that the Account Owner deposited bonds of [REDACTED] and shares of *Vereinigte Saar-Elektrizitäts A.G.* in the custody account numbered 25756 on 28 February 1933. The customer card for the account numbered 26903 indicates that the Account Owner had other securities deposited in the custody account numbered 5879 of *Gapp & Bernard Jenewein*. This corresponds with information on the customer card for the custody account numbered 5879, which indicates that the actual owner of the account numbered 5879 was *Frau* (Mrs.) Selma Weiler, and that the Power of Attorney Holder to this account was *Director* Heinrich Jenewein of the company *Friedrichsthaler Eisenwerke A.G.* in Friedrichsthal, Germany. The Bank's records are illegible as to the values of the shares and bonds deposited. The Bank's records indicate that the custody accounts numbered 5814 and 5879 were closed on 23 February 1933. The amount in these accounts on the date of their closure is unknown.

With respect to the custody accounts numbered 25756 and 26903, the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. The Bank's records do not show to whom they were paid, nor do these records indicate the value of these accounts. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's aunt's maiden and married names match the published name of the Account Owner, and his uncle's name matches the published name of the Power of Attorney Holder. His aunt's city of residence also matches the published city of residence of the Account Owner. The Claimant identified the exact name

of the street in Saarbrücken where his aunt resided, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimant also identified the fact that his uncle was an attorney, which matches unpublished information about the Power of Attorney Holder contained in the Bank's records. Finally, the Claimant stated that his aunt was married to Benny Weiler, which matches unpublished information contained in the Bank's records about the relationship between the Account Owner and the Power of Attorney Holder. The CRT notes that the Claimant submitted excerpts from his official family book, indicating that his father was [REDACTED] and that [REDACTED] and Benny Weiler were brothers; and the death certificates of Benny and Selma Weiler, indicating that they were married to each other, providing independent verification that the person who is claimed to be the Account Owner was married to the same person recorded in the Bank's records as the Power of Attorney Holder and husband of the Account Owner. Finally, the CRT notes that the one other claim to these accounts was disconfirmed because the other claimant did not establish any connection to Germany and was not able to identify the Power of Attorney Holders.

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 and her husband were forced to flee Nazi Germany in 1934 to Sarreguemines, France.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting the death certificates of Benny and Selma Weiler, indicating that they were married to each other; and excerpts from his official family book, indicating that his father was [REDACTED] and that [REDACTED] and Benny Weiler were brothers; demonstrating that Selma Weiler was the Claimant's aunt.

The Issue of Who Received the Proceeds

With respect to the custody accounts numbered 5814 and 5879, both of which were closed on 23 February 1933, the CRT finds it likely that the Account Owner received the proceeds of these accounts. The Bank's records indicate that the Account Owner deposited securities in the custody account numbered 25756, on 28 February 1933, which was five days after the custody accounts numbered 5814 and 5879 were closed. This activity indicates that the Account Owner had access to her accounts at the time the custody accounts numbered 5814 and 5879 were closed.

With respect to the custody accounts numbered 25756 and 26903, given that the Account Owner died in a car accident in 1935; that there is no record of the payment of the Account Owner's accounts to her or her heirs; that the Account Owner's heirs would not have been able to obtain information from the Bank about her accounts after the Second World War due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners or their heirs 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, the Power of Attorney Holders, 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 aunt, and that relationship justifies an Award. Finally, 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 numbered 25756 and 26903.

Amount of the Award

In this case, the Account Owner held two custody accounts. 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 custody account was 13,000.00 Swiss Francs, producing a historical total of 26,000.00 Swiss Francs in this instance. 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 325,000.00 Swiss Francs.

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, whether by blood or by marriage, who has submitted a claim, consistent with the principles of fairness and equity. In this case, the Claimant is representing his sister-in-law, [REDACTED], the widow of his deceased brother [REDACTED]. Both the Claimant and his sister-in-law are related to the Account Owner by marriage. Accordingly, the Claimant and his sister-in-law are each 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 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
19 November 2003