

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ernest Buehler

in re Account J.H. Weinscenk

Claim Number: 206220/AY

Award Amount: 25,680.00 Swiss Francs

This Certified Award is based upon the claim of Ernest Buehler (the “Claimant”) to the unpublished account of J.H. Weinscenk (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his great-uncle (his maternal grandfather’s brother), Joseph Weinscenk, who was born on 13 October 1864 in Winsbach, Germany, and was married to Rosa Weinscenk, née Elkan. The Claimant indicated that Joseph Weinscenk, who was Jewish, was a textile merchant and a real estate investor, who owned his own residence at Schlosstrasse 14, house number 87C, in Wittelshofen, Germany. The Claimant indicated that Joseph and Rosa Weinscenk, who had no children, were both arrested by the Nazis during the *Kristallnacht* (Night of Broken Glass) pogrom, deported, and were never heard from again. The Claimant further indicated that the house in which they were living was forcibly sold to the Nazis in 1941 by David Elkan, Rosa Weinscenk’s brother. The Claimant further indicated that after the end of the Second World War, the sale was declared void, and the city council was forced to repurchase the house, despite the fact that by that time it had already been destroyed. The Claimant indicated that Heinrich Zoller, a Wittelshofen historian, resided next to Joseph and Rosa Weinscenk and knew them personally.

The Claimant submitted a letter from the mayor of Wittelshofen indicating that Heinrich Zoller still lives on Schlosstrasse in Wittelshofen, and a narrative indicating the names of his relatives and the history of the house owned by Joseph Weinscenk. The Claimant stated that he was born on 29 September 1933 in Fürth, Germany.

Information Available in the Bank Record

The bank record consists of an extract from a suspense account ledger dated 17 May 1949. According to this record, the Account Owner was J.H. Weinscenk. The bank record indicates that the Account Owner held a demand deposit account denominated in United States Dollars. The bank record does not indicate when the account was opened, nor does it show the country of residence of the Account Owner. The bank record indicates that, on or before 14 May 1949, the account was transferred to a suspense account, which is a grouping of dormant and open accounts. The bank record also indicates that the amount in the account on the date of its transfer was 5.09 United States Dollars, equivalent to 17.80 Swiss Francs, according to the exchange rate (1 United States Dollar = 3.50 Swiss Francs) at that time. The account remains open and dormant.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His great-uncle's name matches the unpublished name of the Account Owner. The CRT notes that the Account Owner's name was not contained in the list of accounts published in February 2001. This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the published list as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the list of accounts in February 2001. This supports the credibility of the information provided by the Claimant. Furthermore, in this case, the bank record does not contain any specific information about the Account Owner other than his initials and last name. The CRT also notes that there are no other claims 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, that he and his wife were both arrested by the Nazis during the *Kristallnacht* (Night of Broken Glass) pogrom, deported, and never heard from again.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The bank record indicates that the account remains open and dormant.

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 great-uncle, and that relationship justifies an Award. Finally, the CRT has determined 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 demand deposit account. The bank record indicates that the value of the demand deposit account as of 14 May 1949 was 17.80 Swiss Francs. According to Article 29 of the Rules, if the amount in a demand deposit 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 29 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 25,680.00 Swiss Francs.

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

March 28, 2003