

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
acting on behalf of herself and [REDACTED]

in re Account of Charlotte Weinstock and Rudolph Weinstock

Consolidated Claim Number: 209850/HM¹

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”), to the account of Charlotte Weinstock and Rudolph Weinstock (the “Account Owners”) at the Zürich 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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying the Account Owners as her paternal uncle, Rudolph Weinstock, and his wife, Charlotte Weinstock, who were born and were married in Vienna, Austria. The Claimant indicated that she is the niece of the Account Owners and that she was born in Vienna, Austria on 16 March 1925. The Claimant is representing her brother, [REDACTED], who was born in Vienna, Austria on 10 March 1932.

The Claimant stated that her father, his brothers and his sister-in-law owned a shirt-manufacturing company at Morzinplatz 10 in Vienna, Austria. The Claimant further stated that the Account Owners had two residences in Vienna, Austria, one of which was located on Obere Donaustrasse 1, Vienna II. According to the Claimant, the Account Owners were Jewish, and were deported from Vienna to Auschwitz, where they perished.

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 209850 and 211503. The Tribunal has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 209850.

Information Available in the Bank Records

The bank records consist of an opening contract, dated 4 October 1929, and printouts from the Bank's database. According to these records, the Account Owners were Frau Charlotte Weinstock and Rudolph Weinstock. The bank records indicate that the Account Owners held a joint custody account.² According to the bank records, the Account Owners lived on Seegasse 9, Vienna II, Austria.

The bank records do not show if or when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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 (the "ICEP Investigation") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

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. In the records of the Austrian State Archives (Archive of the Republic, Finance) there are documents concerning the assets of Rudolf Weinstock and Charlotte Weinstock. These records include Austrian census forms, dated 14 July 1938, which indicate that Rudolf Weinstock was Jewish, was born on 16 December 1894, was married to Charlotte Weinstock, née [REDACTED], and was an official of the Jewish Community. The records show that Charlotte Weinstock was Jewish, was born on 25 July 1894, was a housewife and that they both used an address at Alserstrasse 30/59 in Vienna IX/2, Austria. The records also show that the Nazis expropriated assets belonging to Rudolf Weinstock in a value of approximately 52,595.00 Reichsmarks (present value approximately 1,028,200.00 Swiss Francs) and belonging to Charlotte Weinstock in a value of approximately 2,066.00 Reichsmarks (present value approximately 40,400.00 Swiss Francs). There is no indication in these records that the assets expropriated by the Nazis were held in a Swiss bank account.

The Tribunal's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Their names match the published names of the Account Owners. Despite the fact that the Account Owners were listed separately

² The bank records contain a power of attorney form that references a "Titeldepot," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owners held a custody account, in the absence of evidence to the contrary, the Tribunal concludes that it is plausible that they held such an account.

on the list of bank accounts published by the ICEP Investigation on 5 February 2001, the Claimant stated that the Account Owners were married, which matches unpublished information contained in the bank records. Furthermore, the Claimant has identified her uncle's street address as Obere Donaustrasse 1, Vienna II. Although this is a different street address than the unpublished address contained in the bank records, research conducted by the Tribunal has revealed that the addresses are only approximately 200 meters apart. The Tribunal therefore finds it plausible that the Claimant has identified the same place of residence for the Account Owners as that contained in the bank records. This Claimant stated that the Account Owners were the part owners of a shirt-manufacturing company. The information contained in the Austrian census records indicates that Account Owner Rudolph Weinstock was an official of the Jewish Community. As such officials were often recruited from among leaders of the community, the two occupations are not mutually exclusive.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and were deported to Auschwitz, where they perished. Moreover, the Tribunal notes that a database containing the names of Victims of Nazi Persecution includes a person named Charlotte Weinstock, indicating that her date and place of birth was 25 July 1894 in Vienna, Austria, and a person named Rudolf Weinstock, born on 16 December 1894 in Vienna, Austria, which is consistent with the information contained in the Austrian census records. The place of birth of Charlotte Weinstock in the database matches the information provided by the Claimant. This database was compiled from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners. There is no information to indicate that the Account Owners have other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owners.

The Issue of Who Received the Proceeds

Since the Claimants would not be entitled to an award if the account at issue was paid to the Account Owners or her heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the ICEP Investigation demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owners or

their family as described below, there is a substantial likelihood that these funds went to the Nazis or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that a plausible showing has been made that neither the Account Owners nor their heirs received the proceeds.³ The Account Owners were Jewish, and were deported from Vienna to Auschwitz, where they perished. The application of confiscatory laws in Austria by the Nazi Regime after the *Anschluss* of March 1938, as described in more detail in footnote 3 below, makes it unlikely that the Account Owners received the proceeds themselves, and the Austrian census records confirm that substantial assets were expropriated from them by the Nazis. Moreover, there is no evidence in the bank records suggesting that the Account Owners closed the account and received the proceeds themselves.

Basis for the Award

The Tribunal 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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were her uncle and his wife, and those relationships justify an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 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 present 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. The present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. In this case, the value of the account at issue is based on the Article 35 presumptions and there is the possibility of other competing claims. After all claims are processed, subject to approval by the

³ In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. After the annexation of Austria, German laws were extended to apply there as well, and these laws applied to foreign assets of Austrian citizens as a result of a law promulgated on 23 March 1938. Although many of the laws were facially non-discriminatory, the Nazi Regime enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of Austria, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, www.crt-ii.org.

Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, 35% of the total award amount is 52,325.00 Swiss Francs.

Division of the Award

The Claimant is representing her brother in these proceedings. According to Article 29 of the Rules, her brother is entitled to receive 50% of any payment made to the Claimant.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claims to determine whether there are additional Swiss bank accounts to which she 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).

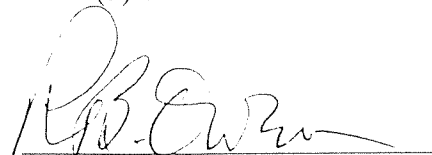
Certification of the Award

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Article 37(3)(a) and (b) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value and is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

26 March 2007

Date



Roberts B. Owen

Claims Resolution Tribunal