

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Adolf Weiss, Ellen Weiss and Paul Weiss

Claim Numbers: 209168/BW/AC; 209503/BW/AC; 213678/BW/AC¹

Award Amount: 318,875.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Adolf Weiss, Ellen Weiss, and Paul Weiss. This award is to the published accounts of Adolf Weiss (“Account Owner Adolf Weiss”) at the [REDACTED] (“Bank I”) and the [REDACTED] (“Bank II”); the published account of Ellen Weiss (“Account Owner Ellen Weiss”), over which Account Owner Adolf Weiss held power of attorney, at the Zurich branch of the [REDACTED] (“Bank III”) (together the “Banks”); and the published account of Paul Weiss (“Account Owner Paul Weiss”) (together the “Account Owners”), at Bank II.²

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 three Claim Forms identifying the Account Owners as her maternal grandparents, Adolf (Adolfo) Weiss, who was born in 1874 in Vienna, Austria, and Ellen Weiss, née Wurmser, who was born on 8 August 1876 in Mannheim, Germany, and who were married in 1899 in Vienna; and her maternal uncle, Paul Weiss, who was born in Vienna in 1900. The Claimant stated that her grandparents, who were Jewish, resided in Vienna at Linke Wienzeile 8. According to the Claimant, her grandparents had five children: Paul Weiss, [REDACTED], née [REDACTED] (the Claimant’s mother), [REDACTED], [REDACTED], and [REDACTED], née [REDACTED]. The Claimant indicated that her grandfather was the Austrian General Consul to

¹ The Claimant submitted an additional claim to the account of Fritz Weiss, which is registered under the Claim Number 209169. The CRT will treat the claim to this account in a separate decision.

² 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 name Paul Weiss appears twice. Upon careful review, the CRT has determined that the second Paul Weiss is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as her relative.

Portugal, and that he resided in Lisbon, Portugal at the time of the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). The Claimant stated that because her grandfather was Jewish and the Nazis had issued a warrant for his arrest, he was forced to remain in Lisbon to avoid Nazi persecution for the duration of the Second World War. According to the Claimant, her grandmother fled Vienna to Baden, Switzerland, sometime around 1940, and her grandfather sent money from Portugal to Switzerland to support her. The Claimant also indicated that the Nazis imprisoned her uncle [REDACTED], and her uncle Paul Weiss, a businessman who assisted his father (Adolf Weiss) in his business dealings and who was also Jewish, in an effort to compel the Claimant’s grandfather to return to Vienna. According to the Claimant, her uncle Paul Weiss escaped from prison in approximately 1941 and fled via Switzerland and Lisbon to Mexico City, Mexico, where he resided until his death in 1970, and her uncle [REDACTED] escaped from prison in 1941, at which time he fled to Switzerland and resided with the Claimant’s grandmother in Baden. The Claimant indicated that her grandmother died in Baden in 1944, and that her grandfather died in Lisbon in 1956. The Claimant stated further that all of Adolf Weiss’s children, with the exception of the Claimant’s mother, [REDACTED], died childless.

In support of her claim, the Claimant submitted copies of the following documents: (1) her grandmother’s passport, which indicates that Ellen Weiss was born on 8 August 1876, that she resided in Vienna, that she was issued a Swiss residence pass for foreigners on 12 July 1939 in St. Gallen, Switzerland, and that she was issued visas to visit the General Consul in Lisbon, and which includes a sample of her signature; (2) her grandfather’s diplomatic passport, issued on 20 October 1932 in Vienna, which indicates that Adolfo Weiss was the General Consul to Portugal, and includes a sample of his signature; (3) her mother’s birth certificate, which indicates that [REDACTED] was born on 27 October 1906 in Vienna, and that her parents were Adolf Weiss and Ellen Weiss, née Wurmser; (4) her parents’ marriage certificate, which indicates that [REDACTED] was married to [REDACTED] on 22 August 1946;³ (5) her own birth certificate, which indicates that [REDACTED] was born on 3 February 1951 to Mr. and Mrs. [REDACTED]; (6) her mother’s death certificate, which indicates that [REDACTED] was born on 27 October 1906 in Vienna, and that her parents were Adolf Weiss and Ellen Wurmser; and (7) her mother’s probate documents, dated 18 October 1996, issued in Bridgeport, Connecticut, United States, which indicates that [REDACTED] is the sole heir to the estate of [REDACTED]. The Claimant indicated that she was born on 3 February 1951 in Bridgeport.

Information Available in the Banks’ Records

Bank I

Bank I’s record consists of a customer card. According to this record, Account Owner Adolf Weiss was *Hofrat* (Imperial Counsel) Adolf Weiss, who resided in Baden, Switzerland. Bank I’s record indicates that Account Owner Adolf Weiss held a demand deposit account, which was closed on 30 September 1939, and a custody account numbered L27771, which was closed on 3 July 1939. The amounts in the accounts on the dates of their closure are unknown.

³ The Claimant indicated that her mother had previously been married to [REDACTED].

There is no evidence in Bank I's record that Account Owner Adolf Weiss or his heirs closed the accounts and received the proceeds themselves.

Bank II

Bank II's records consist of two customer cards and printouts from Bank II's database. According to these records, Account Owner Adolf Weiss was Adolf Weiss, who held the title of General Consul and resided at Nelkengasse 1 in Vienna, Austria, and Account Owner Paul Weiss was Paul Weiss, who held the title of Vice Consul and resided at the same address.

Bank II's records indicate that Account Owner Adolf Weiss held three demand deposit accounts: (1) demand deposit account 27665, which was opened on 6 July 1935 and closed on 31 January 1941; (2) demand deposit account 35031, which was opened on 23 March 1937 and closed on 2 February 1939; and (3) demand deposit account 38221, which was held in United States Dollars, which was opened on 6 January 1940 and closed on 14 May 1940. The amounts in these accounts on the dates of their closure are unknown.

Bank II's records also indicate that Account Owner Paul Weiss held one demand deposit account, numbered 24872 and held in United States Dollars, which was opened on 17 May 1933 and closed on 29 December 1939. Bank II's records indicate that the account had a negative balance of 21.00 Swiss Francs ("SF") as of 1933, and that the negative balance was carried forward until 1939.

There is no evidence in Bank II's records that Account Owner Adolf Weiss and Account Owner Paul Weiss or their heirs closed the accounts and received the proceeds themselves.

Bank III

Bank III's records consist of a power of attorney form signed in Vienna on 6 April 1931, as well as a printout from Bank III's database. According to these records, Account Owner Ellen Weiss was *Frau* (Mrs.) Ellen Weiss who resided at Linke Wienzeile 8 in Vienna. Bank III's records indicate that Account Owner Ellen Weiss held one account, the type of which is not indicated, and that Adolf Weiss, who resided at the same address, held power of attorney over the account. These records include signature samples for Account Owner Ellen Weiss and Account Owner Adolf Weiss. The Bank's records do not indicate when the account was closed, nor do they indicate the value of the 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 ("ICEP" or the "ICEP Investigation") did not find this account in Bank III's system of open accounts, and they therefore presumed that it was closed. The auditors indicated that there was no evidence of activity on this account after 1945. The amount in this account on the date of its closure is unknown.

There is no evidence in Bank III's records that Account Owner Ellen Weiss, Account Owner Adolf Weiss, or their heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Adolf Weiss and Ellen Weiss, née Wurmser, numbered 63109 and 32563, respectively. According to these records, Adolf Weiss and Ellen Weiss, née Wurmser (who was born on 8 August 1876), were married and resided at Linke Wienzeile 8 in Vienna. According to these records, Adolf and Ellen Weiss jointly owned assets valued at 300,000.00 Reichsmark (“RM”), that Ellen Weiss owned cash and securities worth approximately RM 21,300.00, and they were ordered to pay flight tax (*Reichsfluchtsteuer*) of RM 75,000.00.

These records indicate that proceedings were being taken against Adolf Weiss and include a newspaper article dated 5 October 1938 from the *Wiener Zeitung* (“Vienna Daily News”) which indicates that Adolf Weiss owed RM 75,000.00 in flight tax and was at that time residing at Rue Scribe 2 in Paris, and urged anyone to capture him should he return to Austria. These records include a warrant of seizure issued by the Finance Authority of East Vienna dated 9 December 1938, against Adolf Weiss of Vienna, and against Dr. Hans Schlesinger in Berlin, who resided at Linkstrasse 42; and an internal memorandum of the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt.”), dated 9 January 1939, which indicates that an investigation was to be conducted in order to obtain information about the assets of Adolf Weiss.

These records make no mention of assets held in a Swiss bank account.

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 three claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Adolf Weiss and Account Owner Ellen Weiss. The Claimant’s grandmother’s name and city of residence match the published name and city of residence of Account Owner Ellen Weiss, and the Claimant’s grandfather’s name matches the published name of Account Owner Adolf Weiss. The Claimant identified Account Owner Adolf Weiss’s occupation and city of residence, which match unpublished information about Account Owner Adolf Weiss contained in Bank II’s records. The Claimant also identified her grandparents’ street address in Vienna, which matches information about Account Owner Adolf Weiss and Account Owner Ellen Weiss contained in Bank III’s records and 1938 Census

records. The Claimant also stated that her grandmother lived in Baden, which is consistent with the address information Account Owner Adolf Weiss provided to Bank I.

The Claimant's uncle's name and city and country of residence match the published name, city and country of residence of Account Owner Paul Weiss. The CRT notes that the street address of Account Owner Paul Weiss contained in Bank II's records matches the street address of Account Owner Adolf Weiss contained in Bank II's and Bank III's records. Bank II's records also state that Account Owner Paul Weiss's profession was Vice Consul. Although the Claimant has not identified her uncle's profession as being such, the CRT determines that it is plausible that her uncle may have held the post of Vice Consul, given that her grandfather held the post of General Consul to Portugal. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Paul Weiss.

In support of her claim, the Claimant submitted documents, including her grandfather's diplomatic passport, her grandmother's passport, and her mother's birth and certificates, providing independent verification that the persons who are claimed to be Account Owner Adolf Weiss and Account Owner Ellen Weiss had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner Adolf Weiss and Account Owner Ellen Weiss. Finally, the Claimant submitted a sample of her grandfather's signature, which matches the signature sample of Account Owner Adolf Weiss contained in Bank III's records.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence and professions than those of the Account Owners.

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. The Claimant stated further that Account Owner Adolf Weiss had a warrant issued for his arrest by the Nazis, thereby forcing him to remain in exile in Lisbon. The Claimant also stated that Account Owner Ellen Weiss was forced to flee Austria to Switzerland in 1939, and that Account Owner Paul Weiss was imprisoned by the Nazis and later fled to Mexico City.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's grandparents and uncle. These documents include her mother's birth and death certificates, which indicate that [REDACTED, née [REDACTED], was the daughter of Adolf and Ellen Weiss, the Claimant's own birth certificate, which indicates that [REDACTED]'s parents were Mr. and Mrs. [REDACTED]; and her mother's probate documents, which indicates that [REDACTED] is the sole heir to the estate of [REDACTED]. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the demand deposit account held by Account Owner Paul Weiss at Bank II, the CRT notes that Bank II's records indicate that the account had a negative balance from the year of its opening until the year of the closure. Consequently, the CRT determines that the account did not contain any assets, and that the closure of the account indicates that Account Owner Paul Weiss repaid the debt owed to Bank II or that the debt was written off by Bank II. Accordingly, as the account did not contain any assets, no award can be based on its existence.

With regard to the remaining accounts, the CRT notes that the Banks' records indicate that some of the Account Owners' accounts were closed on dates, at which time, according to information provided by the Claimant, the Account Owners were outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the accounts were closed, that the Account Owners fled their country of origin due to Nazi persecution, that the Account Owners had relatives remaining in their country of origin and that they may therefore have yielded to Nazi pressure to turn over their accounts to ensure their relatives' safety, that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 (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 the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were her grandparents and her uncle, 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.

Amount of the Award

In this case, the Award is for one custody account and four demand deposit accounts held by Account Owner Adolf Weiss and for one account of unknown type held by Account Owner Ellen Weiss. Pursuant to Article 29 of the Rules, when the value of an account is unknown, 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 demand deposit account was SF 2,140.00, the average value of an account of unknown type was SF 3,950.00, and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue is SF 25,510.00 for the six accounts at issue. 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 318,875.00.

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 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

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

Claims Resolution Tribunal
27 February 2007