

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Hans Wertheimer

Claim Number: 400773/BW; 402158/BW¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the published account of Hans Wertheimer (the “Account Owner”) at 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 her father, [REDACTED], who was born on 6 July 1876 in Pardubitz, Austria-Hungary (today Pardubice, the Czech Republic), and was married to [REDACTED], née [REDACTED], in 1918 in Vienna, Austria. The Claimant indicated that her father, who was Jewish, practiced as an attorney in Vienna from 1920 to 1938. The Claimant further indicated that she and her father were in Vienna on the Night of Broken Glass (“*Kristallnacht*”), after which they fled to Prague, Czechoslovakia on 11 November 1938. According to the Claimant, her father resided in Prague until he was deported by the Nazis from Prague to Theresienstadt, where he perished in 1943.

The Claimant submitted her birth certificate, which indicates that [REDACTED] was born in Vienna to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant also submitted

¹ The CRT notes that [REDACTED], née [REDACTED] (the “Claimant”) submitted a claim to the account of her father to the CRT on 2 June 2005. On 12 July 2005, the CRT received a claim to the same account filed by Jonathon Palmer, an employee of Mondex Corporation, on the Claimant’s behalf, which is registered under the Claim Number 402158. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 400773. The CRT notes the Award to this account is and would have been made on the basis of the information contained in the claim filed by the Claimant on 2 June 2005. The CRT further notes that [REDACTED] is being represented by her cousin’s son, [REDACTED], in a claim to the account of [REDACTED], which is registered under the Claim Number 401798. The CRT will treat the claim to this account in a separate decision.

a document certifying that she had been declared of age (*“Entlassung aus der väterlichen Gewalt”*), indicating that [REDACTED], an attorney in Vienna, had certified that his daughter, [REDACTED], had reached majority as of 18 February 1938. The Claimant indicated that she was born on 6 January 1919 in Vienna.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Dr. Hans Wertheimer, who was an attorney. The Bank’s record lists the Account Owner’s cities of residence as Prague, Czechoslovakia, Zurich, Switzerland, and Basel, Switzerland. The Bank’s record indicates that the Account Owner held one demand deposit account, which was opened in 1931 and closed on 20 April 1939. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

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 Dr. Hans Wertheimer, numbered 3725. These records indicate that Dr. Hans Wertheimer, born 6 July 1876, was a widower, who resided with his daughter [REDACTED] at Flossgasse 2 in Vienna. These records further indicate that Dr. Wertheimer was an attorney, and maintained a law office at Singerstrasse 27 in Vienna. These records also contain a memo, which indicates that as of 27 October 1938, Dr. Wertheimer had left Austria, and identifies his possible destinations as Czechoslovakia, France, Yugoslavia or England. These records make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s father’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s title and profession, which matches unpublished information about the Account Owner contained in the Bank’s record. The CRT notes that the Account Owner’s unpublished cities of residence were Prague, Zurich, and Basel, and that the Claimant indicated that her father was born in Pardubitz, Czechoslovakia and fled from Vienna to Prague on 11 March 1938. The CRT notes that Pardubitz is less than 100 kilometers from Prague, and concludes that it is plausible that the Claimant’s father would indicate Prague as his city of residence for purposes of maintaining a bank account.

In support of her claim, the Claimant submitted documents, including a declaration of having reached majority, identifying her father as Dr. Hans Wertheimer and indicating that he was an

attorney, providing independent verification that the person who is claimed to be the Account Owner had the same name, title, and profession recorded in the Bank's record as the name, title, and profession of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hans Wertheimer, and indicates that his date of birth was 6 July 1876 and place of birth was Pardubitz, Czechoslovakia, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner, or because those claimants provided dates of birth that were inconsistent with the Account Owner's profession at the time the account was opened. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 fled from Vienna to Prague on 11 November 1938, and that he was deported by the Nazis to Theresienstadt, where he perished. As noted above, a person named Dr. Hans Wertheimer was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include her birth certificate, which indicates that [REDACTED] was born in Vienna on 6 January 1919 to [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner was forced to flee from Austria to Prague on 11 November 1938; that the account was closed on 20 April 1939, after the German occupation of Bohemia and Moravia; that the Account Owner was deported from Prague to Theresienstadt, where he perished; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his account 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 (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 or his 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 her father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible 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. 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 demand deposit account was 2,140.00 Swiss Francs (“SF”). 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 26,750.00.

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 claim 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
28 June 2006