

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 Gaston Winston, *Mme* Gaston Winston,
Paul Oppenheimer and René Oppenheimer**

Claim Numbers: 220260/MO; 220261/MO

Award Amount: 1,699,466.40 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Gaston Winston and Paul Oppenheimer at the Geneva branch of the [REDACTED I] (“Bank I”) and the account of *Mme* Gaston Winston and René Oppenheimer at the Liebefeld branch of the [REDACTED II] (“Bank II”) (together the “Account Owners”).

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 two Claim Forms identifying the Account Owners as her father, René Oppenheimer, her paternal grandmother, Camille Golda Winston, née Lazard, her step-grandfather, Gaston Winston, and her great-uncle, Paul Oppenheimer. The Claimant submitted detailed information about her family, indicating that her paternal grandmother, Camille Golda Winston, née Lazard, was born on 14 July 1885 in Strasbourg, France. The Claimant stated that her grandmother was first married to Nestor Oppenheimer on 8 September 1909 in Nogent-en-Bassigny, Haute-Marne, France, and that they had one child: René Solomon Oppenheimer (the Claimant’s father), who was born on 22 July 1911 in Managua, Nicaragua. The Claimant also indicated that Nestor Oppenheimer had a brother named Paul Oppenheimer (about whom the claims contain no further information). According to the Claimant, after the death of her first husband, Camille Lazard married Gaston Winston on 2 April 1935, and they did not have any children. The Claimant stated that Gaston Winston was born on 20 January 1886 in Texarkana, the United States. The Claimant further indicated that Gaston Winston was the son of Joseph and Josephine Winston and that he was an importer. Based on documents submitted by the Claimant, Gaston Winston resided with his wife at 24, rue Du Boccador, in Paris, France.

The Claimant further stated that her father, René Oppenheimer, married Marisa Silvia Alfandari on 22 May 1947 in Brussels, Belgium, and that they had two daughters: the Claimant, who was born in Paris on 18 June 1950, and her sister Marceline Sylvie, who was also born in Paris, on 25 January 1953. The Claimant identified her father as a businessman who resided in Paris all his life, in particular at 12 Avenue Le Bourdonnais, and 51 Avenue De Montaigne.

The Claimant indicated that both her father and Gaston Winston were Jewish, and that her father, René Oppenheimer, was arrested by the Nazis and detained in the Drancy concentration camp in 1942, as indicated in documents provided by the Claimant. The Claimant further indicated that her father obtained false documentation, indicating that he was not Jewish, and was released from the concentration camp. The Claimant stated that her father remained in France during the Second World War and that he died in Ville d'Avray, France on 1 September 1996. Furthermore, the Claimant indicated that her grandmother and Gaston Winston resided in the United States during the Second World War, where Gaston Winston died on 14 April 1944 in New York. Her grandmother died on 29 August 1971 in Paris.

In support of her claims, the Claimant submitted copies of various documents, including her French passport, her family booklet, her grandmother's death certificate and holograph testament, a document showing that René Oppenheimer was detained by the Nazis in Drancy, her parents' marriage certificate, and Gaston Winston's French family booklet and death certificate.

Information Available in the Bank Records

The bank records of Bank I consist of various account statements, including account opening cards and contracts, printouts of Bank I's database, and signature samples. According to these records, the joint Account Owners were Paul Oppenheimer and Gaston Winston, who resided at 24, rue du Boccador in Paris, and the Power of Attorney Holders were, as of 1 September 1937, Mr. René Oppenheimer and Gaston Winston's wife, *Mme* (Mrs.) Gaston Winston. The bank records indicate that the Account Owners held a custody account and a demand deposit account in United States Dollars, numbered DL 19624, which were opened on 22 December 1936. The bank records indicate that the Account Owners had declared their intention to transfer the amount of 25,000.00 United States Dollars from an account at Bank II (probably upon the opening of the accounts), but there is no information in the bank records showing that this transfer was actually made by the Account Owners. The bank documents also mention that securities were deposited in New York by the bank on behalf of the Account Owners. The bank records do not show if or when the accounts at Bank I were closed, or to whom they were paid.

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 these accounts in the bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that they found no evidence of activity on these accounts after 1937. Finally, the bank records show that these accounts were frozen pursuant to the 1941 United States Freeze of Swiss assets deposited in the United States. It is indicated that the frozen custody account contained 4% Canadian Pacific

Railway Perpetual Consolidated Debenture Stocks of nominal value of 12,000.00 United States Dollars and 5% International Telephone & Telegraph Corporation Debentures of nominal value of 2,000.00 United States Dollars. There is no evidence in the bank records that the Account Owners, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

The bank records of Bank II consist of a joint custody account contract and a power of attorney form. According to these records, the joint Account Owners were *Mme* Gaston Winston, née Lazard, and her son, René Oppenheimer, who both resided at 24, Rue du Boccador in Paris. The Power of Attorney Holder was Paul Oppenheimer. The bank records indicate that the Account Owners held a custody account, which was opened on 17 June 1936. The bank records do not show if or when this account was closed, or to whom it was paid, nor do they indicate the value of this account. The auditors who carried out 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 they found no evidence of activity on this account after 1945. There is no evidence in the bank records that the Account Owners, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process (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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names of her relatives match the published names of the Account Owners and the Power of Attorney Holders. The Claimant identified her grandmother's maiden name, her grandmother's and Gaston Winston's address in Paris, and the relationship between Gaston Winston and René Oppenheimer, which match unpublished information about the Account Owners contained in the bank records. Finally, the Claimant submitted samples of her grandmother's and Gaston Winston's signatures, which match the signature samples contained in the bank records.

Status of the Account Owners as a Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners and Power of Attorney Holders were Targets or Victims of Nazi Persecution. The Claimant stated that René Oppenheimer, Camille Winston and Gaston Winston were Jewish, and that René Oppenheimer was interned in the concentration camp in Drancy during the Second World War.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting documents showing that she is the daughter of René Oppenheimer and the granddaughter of Camille Winston. She also submitted the marriage certificate of her grandmother and Gaston Winston. There is no information to indicate that the Account Owners have other surviving heirs than the Claimant and her sister, whom the Claimant represents.

The Issue of Who Received the Proceeds

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 claim is 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 father, grandmother, step-grandfather and great uncle, and these relationships justify an Award. Finally, the CRT has determined that it is plausible that the Account Owners, the Power of Attorney Holders or their heirs did not receive the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held three accounts: a custody account and a demand deposit account at Bank I, and a second custody account at Bank II. As indicated above, the records of Bank I show that the custody account in Bank I contained 4% Canadian Pacific Railway Perpetual Consolidated Debenture Stocks of a nominal value of 12,000.00 United States Dollars and 5% International Telephone & Telegraph Corporation Debentures of a nominal value of 2,000.00 United States Dollars. The value of the 4% Canadian Pacific Railway Perpetual Consolidated Debenture Stocks as of 1945 was 56,113.20 Swiss Francs, and the value of the International Telephone & Telegraph Corporation Debentures as of that year was 9,009.00 Swiss Francs.¹ Consequently, the total value of the frozen custody account as of 1945 was 65,122.20 Swiss Francs. The present value of the amount of the award is determined by multiplying the historic value by a factor of 12, in accordance with Article 31(1) of the Rules. Consequently, the award amount is 781,466.40 Swiss Francs for the custody account in Bank I.

The bank records of Bank I do not indicate that the value of the demand deposit account in Bank I; however, these records indicate that the Account Owners had declared their intention to transfer the amount of 25,000.00 United States Dollars to this account from their account at Bank

¹ The translation to Swiss Francs in this paragraph is based on the highest values of the securities at issue in 1945 as published in the Wall Street Journal on 29 December 1945 and the average exchange rate from United States Dollars to Swiss Francs in 1945.

II. If the funds were not transferred, it appears plausible that they remained at Bank II. Either way, a value of 25,000.00 United States Dollars is to be given to either the demand deposit account at Bank I or the custody account at Bank II. This value of 25,000.00 United States Dollars is equal to 76,500.00 Swiss Francs.² The present value of the amount of the award is determined by multiplying the historic value by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount of 918,000.00 Swiss Francs for the demand deposit account in Bank I.

Consequently, the total award amount is 1,699,466.40 Swiss Francs.

Division of the Award

The Claimant is representing her sister in these proceedings. According to Article 23 of the Rules, the Claimant and her sister are each entitled to one-half of the 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 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
March 11, 2003

² The translation to Swiss Francs in this paragraph is based on the average exchange rate from United States Dollars to Swiss Francs in 1936.