

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant *Presseclub Concordia*,
Vereinigung österreichischer Journalisten und Schriftsteller
represented by Dr. Gabriel Lansky and
Dr. Ilse Brandner-Radinger

in re Account of *Journalisten- und Schriftstellerverein Concordia*

Claim Numbers: 207346/RS; 710434/RS

Award Amount: 582,990.98 Swiss Francs

This Certified Award is based upon the claims of the *Presseclub Concordia, Vereinigung österreichischer Journalisten und Schriftsteller* (the “Claimant Organization”) to the unpublished account of *Journalisten- und Schriftstellerverein Concordia* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 Organization

The Claimant Organization submitted a Claim Form and an Initial Questionnaire (“IQ”) identifying itself as the Account Owner, *Journalisten- und Schriftstellerverein Concordia*. The Claimant Organization indicated that it was an independent organization of journalists and writers based in Vienna, Austria, and that it was known today as the *Presseclub Concordia, Vereinigung österreichischer Journalisten und Schriftsteller*. The Claimant Organization indicated that prior to the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), the organization was primarily a Jewish organization.¹

The Claimant Organization further stated that shortly following the *Anschluss*, the Nazi authorities dissolved the Claimant Organization and seized all of its assets. The Claimant Organization also indicated that these assets included an account at the Bank.

In support of its claim, the Claimant Organization submitted:

¹ The CRT notes that in its Claim Form, the Claimant Organization indicated that it was or had been a primarily Jewish organization in response to the question regarding its membership in a group of Victims or Targets of Nazi Persecution.

- (1) a decision dated 26 June 1939 and issued by the Commissioner for Suspensions of Organizations and Associations (*der Stillhaltekommissar für Vereine, Organisationen und Verbände*) (the “Commissioner for Suspensions”), indicating that the *Schriftsteller- und Journalistenverein ‘Concordia’*, which had its offices at Rudolfplatz 12, Vienna, was, according to a law dated 14 May 1938, officially dissolved; and indicating that 60 percent of the organization’s assets would be directed to the *Reichsverband der Deutschen Presse* in Berlin, and that the remaining 40 percent of the organization’s assets would be directed to the *Reichsschrifttumskammer* in Berlin;
- (2) a letter dated 27 February 1939 and addressed to the Ministry of Economics and Labor in Vienna, indicating that the Commissioner for Suspensions had ordered that the *Schriftsteller- und Journalistenverein ‘Concordia’* should be dissolved, and that the ‘Reich Organizations’ (*Reichsorganisationen*) that were assuming the organization’s assets would protect the rights of the organization’s remaining Aryan members in using the assumed assets;
- (3) a report prepared by the Commissioner for Suspensions, indicating that the *Schriftsteller- und Journalistenverein ‘Concordia’* was dissolved by a decree dated 10 May 1939, and that its assets would be distributed to the *Reichsverband der Deutschen Presse* and to the *Reichsschrifttumskammer*, and that the *Reichsverband der Deutschen Presse* would further distribute the funds that it received to the *Deutsche Presse* pension and disability fund, but that following regulations of the time, all of the funds would remain in Austria, and would be used to support writers and their dependents in Austria; and
- (4) records indicating an account at the Bank, which are more fully described below.

Additional Information regarding the Account Owner

The CRT has conducted outside research which indicates the fate of the Account Owner and its assets following the *Anschluss*.²

The Austrian Historians’ Commission, in its review of Austrian archival records, revealed that the *Journalisten- und Schriftstellerverein Concordia* was formed in 1859.³ On 17 March 1938, its primary assets were ordered seized by the Nazi authorities shortly following the *Anschluss*. The organization’s headquarters, located in a house at Werdertorgasse 12 in Vienna, was also promptly seized by SS Officers.⁴

² All of the information in this section was obtained from the following Austrian Historians’ Commission’s work: Verena Pawlowsky, Edith Leisch-Prost, and Christian Klosch, *Vereine im Nationalsozialismus: Vermögensentzug durch den Stillhaltekommissar für Vereine, Organisationen und Verbände und Aspekte der Restitution in Österreich nach 1945*. (2004, Oldenbourg Verlag.) From the series *Veröffentlichungen der Österreichischen Historikerkommission: Vermögensentzug während der NS-Zeit sowie Rückstellungen und Entschädigungen seit 1945 in Österreich* (Austrian Historians’ Commission). This book is also searchable online at <<http://books.google.com>>.

³ Ibid at 434.

⁴ Ibid. at 423.

One month later, a new leader of the organization was appointed by Reich officials;⁵ Walter Petwaidic was tasked primarily with the responsibility to secure the significant assets of the organization, which Petwaidic estimated to be worth approximately 320,000.00 Reichsmark.⁶ Petwaidic also ordered that all 243 Jewish members leave the organization. Following this ‘aryanization’ of the organization, membership consisted of the 77 non-Jewish members of the organization.⁷

Petwaidic was successful in securing for the Reich the organization’s assets held in custody accounts at banks in Austria, but he encountered some resistance in obtaining the assets held by the organization in a custody account at the Zurich branch of the [REDACTED]. The Zurich bank indicated in a July 1938 letter to Petwaidic that it was unable to recognize Petwaidic’s rights to the organization’s account without a resolution made at a general meeting of the organization and indicating Petwaidic’s rights to access the Swiss account. On 5 August 1938, the Commissioner for Suspensions issued an order that all of the organization’s assets be seized, “in particular all cash and securities contained in custody account number 56269 at the Zurich branch of the [REDACTED].”⁸ Furthermore, on 30 September 1938, a brief general meeting of the newly-aryanized organization was held, with the purpose of formally electing new leadership that could then be recognized by the [REDACTED] as having rights to access the organization’s account at their bank.⁹

In October 1938, the Commissioner for Suspensions ordered that the assets of the organization be divided 60:40 between the *Reichsverband der Deutschen Presse* and the *Reichsschrifttumskammer*.¹⁰

As indicated above, the Concordia organization was officially disbanded on 10 May 1939.

Following the Second World War, the organization was reconstituted under its original name, and it applied for restitution of its assets from the Austrian government. On 28 June 1956, a settlement was reached in which the immediate restitution of all of the organization’s former assets, including the custody account at the [REDACTED], was ordered (the “1956 Restitution Settlement Agreement”). The restitution settlement agreement indicated that as of 28 June 1956, Concordia’s custody account at the [REDACTED] in Zurich was still open, and had a 1956 value of 5,888.65 Swiss Francs (“SF”).¹¹

⁵ Ibid.

⁶ Ibid at 424.

⁷ Ibid at 425.

⁸ Citation from order, see footnote 11 at Ibid at 424. Original citation: “*Inbesondere sämtliche im Depot Nr. 56269 der Schweizer. Bankanstalt in Zürich erliegenden Bargelder und Effekten.*”

⁹ Ibid. at 425 and see also footnote 13 at 425.

¹⁰ Ibid at 427-428.

¹¹ The settlement agreement is summarized at Ibid at 434. The citation for the full settlement agreement, which was examined by the CRT, is WStLA, M.Abt. 119/A 41, VEAV, I/C-1223, Vergleichsausfertigung 3RK 191/55 v. 28.6.1956 (Wiener Stadt und Landesarchiv/ Vienna City and County Archives).

Information Available in the Bank's Records

The Bank's records consist of custody account portfolio holding cards ("*Depotvalorenkarten*") indicating securities held within a custody account numbered 56269. The portfolio holding cards indicate that the Account Owner of that custody account was *Journalisten- und Schriftstellerverein Concordia*. The portfolio holding cards do not indicate the city or country of origin of the Account Owner.

These documents indicate that at the time the Account Owner was deemed to have lost control over the custody account, it contained the following securities:

- 4.5% *Kingdom of Denmark ext. loan gold bonds per 15 April 1962* with a face value of 1,000.00 United States Dollars ("US \$), which were sold on 24 December 1938;
- 5% *Kassascheine Französische Staatsbahnen Serie B redeemable 15 March 1938* bonds with a face value of SF 5,000.00, which were sold on 12 March 1938;
- 5% *Aktiengesellschaft für Unternehmungen der Textilindustrie, Glarus 1929* bonds with a face value of SF 3,000.00, which were sold on 24 December 1938;
- 5% *Kraftwerk Ryburg-Schwörstadt A.-G., Rheinfelden 1929* bonds with a face value of SF 8,000.00, which were sold on 24 December 1938;
- 2.5% *British Consols* bonds with a face value of 300.00 British Pounds ("£"), which were sold on 24 December 1938;
- 4% *Schweizerische Bundesbahnen 1931* bonds with a face value of SF 8,000.00, which were sold on 24 December 1938;
- 4% (formerly 5%) *Pfandbriefe Bodenkreditbank Basel 1915 (1929)* bonds, with a face value of SF 3,000.00, which were sold on 24 December 1938;
- 4.5% *Aktiengesellschaft Brown, Boveri & Co., Baden 1930* bonds with a face value of SF 5,000.00, which were sold on 24 December 1938;
- 4% *Stadt Genf 1931* bonds with a face value of SF 3,000.00, which were transferred to the *Österreichische Creditanstalt* in Vienna on 24 December 1938; and
- 4.5% *Bank für Elektrische Unternehmungen Zürich 1931* bonds with a face value of SF 7,000.00, which were transferred to the *Österreichische Creditanstalt* in Vienna on 24 December 1938.

The Bank's records do not indicate whether this account was closed.

The CRT notes that 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 report an account belonging to *Journalisten- und Schriftstellerverein Concordia* during their investigation of the Bank. The Bank's documents were obtained by the Claimant Organization and were forwarded to the CRT.

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 two claims of the Claimant Organization in one proceeding.

Identification of the Account Owner

The Claimant Organization has plausibly identified itself as the Account Owner. The Claimant Organization's name closely matches the unpublished name of the Account Owner; the CRT notes that the Claimant Organization's current official name is *Presseclub Concordia, Vereinigung österreichischer Journalisten und Schriftsteller*, whereas the Account Owner's name is *Journalisten und Schriftstellerverein Concordia*.

In support of its claim, the Claimant Organization submitted documents, including a 26 June 1939 decision issued by the Commissioner for Suspensions; a letter dated 27 February 1939; and a report prepared by the Commissioner for Suspensions, providing independent verification that the organization that is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant Organization has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant Organization stated that the Account Owner was considered by the Nazis to be a primarily Jewish organization following the *Anschluss*. In addition, the Claimant Organization indicated that its assets were seized by the Nazis and that the organization was disbanded following the *Anschluss*. Outside research conducted by the CRT indicates that all 243 of the organization's Jewish members were ordered to leave the organization in 1938, such that only the 77 non-Jewish members of the organization remained.

The Claimant also submitted a 1939 decision issued by the Commissioner for Suspensions indicating that the *Schriftsteller- und Journalistenverein 'Concordia'* was officially dissolved, and that 60 percent of the organization's assets would be directed to the *Reichsverband der Deutschen Presse* in Berlin, and that the remaining 40 percent of the organization's assets would be directed to the *Reichsschrifttumskammer* in Berlin; a 1939 letter indicating that the Reich Organizations assuming Concordia's assets would protect the rights of their Aryan members in using the assumed assets; and an undated report indicating the same facts.

The Claimant Organization's Relationship to the Account Owner

The Claimant Organization has plausibly demonstrated that it is the Account Owner by submitting specific information and documents.

The CRT further notes that the Claimant Organization submitted copies of bank documents indicating an account held by the Account Owner. The CRT notes that it is plausible that these documents would most likely only be possessed by the Account Owner itself.

The Issue of Who Received the Proceeds

The Bank's records do not indicate whether the custody account was closed. However, outside research conducted by the CRT, which includes the 1956 Restitution Settlement Agreement, indicates that following the *Anschluss*, Nazi authorities in Austria submitted several requests to the Bank for the transfer back to the organization of the securities contained in the account. The research also indicates that the Bank was suspicious enough of this request to require a resolution of the organization indicating that the parties requesting the funds from the Bank were entitled to access the account. The Bank's records indicate that the majority of the securities in the account were sold or transferred out of the account on 24 December 1938, after the "aryanization" of the organization and the seizure of its assets by the Reich. The outside research conducted by the CRT also indicates that the custody account was not closed following the sale of the securities in 1938, and that the account still existed in 1956, when the 1956 Restitution Settlement Agreement was reached.

The 1956 Restitution Settlement Agreement indicates that the parties agreed to the return of the custody account to the Account Owner in 1956, at which time the value of the account was SF 5,888.65.

The CRT notes that the records submitted by the Claimant indicate that the Account Owner also held, as indicated above, *5% Kassarischeine Französische Staatsbahnen Serie B redeemable 15 March 1938* bonds with a face value of 5,000.00 Swiss Francs ("SF"), which were sold on 12 March 1938. The CRT notes that these bonds were redeemable on 15 March 1938, and that 12 March 1938 was also the official date of the incorporation of Austria into the Reich (the "*Anschluss*"). However, the CRT further notes that the research that it conducted indicates that the Account Owner's assets first began to be seized on 17 March 1938. Consequently, the CRT concludes that the Account Owner would have received the proceeds of these bonds, and that the profits would have been either used by the Account Owner prior to the seizure of its assets by the Reich, or deposited in one of the other Austrian accounts that were returned to the Account Owner in the 1956 Restitution Settlement Agreement.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant Organization. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant Organization has plausibly demonstrated that it was the Account Owner. Third, the CRT has determined that it is plausible that the Account Owner did not

receive the proceeds of the securities that were contained in the account and that were sold in December 1938.

Amount of the Award

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the face value of bonds not in default shall be awarded if the market value was below the face value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. The market value of bonds shall be awarded if that value was above the face value on the date the account owner is deemed to have lost control over the account.

- *4.5% Kingdom of Denmark ext. loan gold bonds per 15 April 1962* with a face value of US \$1,000.00. These bonds were of good quality and were trading at 98.75% on 24 December 1938. Therefore, these bonds shall be valued at their face value of US \$1,000.00, which was equivalent to a total value of SF 4,370.00;¹²
- *5% Aktiengesellschaft für Unternehmungen der Textilindustrie, Glarus 1929* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 91.75% on 24 December 1938. Therefore, these bonds shall be valued at their total face value of SF 3,000.00;¹³
- *5% Kraftwerk Ryburg-Schwörstadt A.-G., Rheinfelden 1929* bonds with a face value of SF 8,000.00. These bonds were of good quality and were trading at 104.75% on 24 December 1938. Therefore, these bonds shall be valued at their total market value of SF 8,380.00;¹⁴
- *2.5% British Consols* bonds with a face value of £ 300.00. These bonds were trading at 67% on 24 December 1938. As these bonds were perpetual, they shall be valued at their market value of £ 201.00, which was equivalent to a total value of SF 4,295.37;¹⁵
- *4% Schweizerische Bundesbahnen 1931* bonds with a face value of SF 8,000.00. These bonds were of good quality and were trading at 105.75% on 24 December 1938. Therefore, these bonds shall be valued at their total market value of SF 8,460.00;¹⁶
- *4% (formerly 5%) Pfandbriefe Bodencreditbank Basel 1915 (1929)* bonds, with a face value of SF 3,000.00. These bonds were of good quality and were trading at 54% on 24 December 1938. Therefore, these bonds shall be valued at their total face value of SF 3,000.00;¹⁷
- *4.5% Aktiengesellschaft Brown, Boveri & Co., Baden 1930* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 103.5% on 24 December 1938. Therefore, these bonds shall be valued at their total market value of SF 5,175.00;¹⁸

¹² The market value for this security was obtained from *The New York Times*, 1 November 1938.

The CRT uses official exchange rates when making currency conversions.

¹³ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

¹⁴ Ibid.

¹⁵ The market value for this security was obtained from *The Financial Times*, 29 September 1938.

¹⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

¹⁷ Ibid.

¹⁸ Ibid.

- 4% *Stadt Genf 1931* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 101.5% on 24 December 1938. Therefore, these bonds shall be valued at their total market value of SF 3,045.00;¹⁹ and
- 4.5% *Bank für Elektrische Unternehmungen Zürich 1931* bonds with a face value of SF 7,000.00. These bonds were of good quality and were trading at 105.5% on 24 December 1938. Therefore, these bonds shall be valued at their total market value of SF 7,385.00.²⁰

Therefore, the Bank's records indicate that the total value of the custody account on 24 December 1938 was SF 47,110.37. The current value of this amount is determined by multiplying this amount by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 588,879.63.

As indicated above, the 1956 Restitution Settlement Agreement indicates that the Account Owner would receive payment of the 1956 value of the custody account, namely SF 5,888.65. Accordingly, the restitution value of SF 5,888.65 is subtracted from the actual historical value, for a total award amount of 582,990.98.

Division of the Award

According to Article 23(3) of the Rules, if the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.), the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. In this case, the Claimant Organization has indicated that it is the Account Owner, and that accordingly it is entitled to its own assets. The CRT notes that this award is made to the *Presseclub Concordia, Vereinigung österreichischer Journalisten und Schriftsteller*, and not to its individual representatives, Dr. Gabriel Lansky or Dr. Ilse Brandner-Radinger

Scope of the Award

The Claimant Organization should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on its claims to determine whether there are additional Swiss bank accounts to which it 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
24 October 2008

¹⁹ Ibid.

²⁰ Ibid.