

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3]
and [REDACTED 4]

In re Accounts of Weiss & Hanak

Claim Numbers: 224445/HS; 224447/HS¹

Award Amount: 53,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Ernst Hanak and [REDACTED].² This Award is to the unpublished accounts of *Weiss & Hanak* (the “Account Owner”) at the Zurich branches of the [REDACTED] (“Bank I”) and the [REDACTED] (“Bank II”).

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 banks have been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying the Account Owner as *Weiss & Hanak*, a company founded in Brno, Czechoslovakia, by his great-grandfather, [REDACTED]. The

¹ The Claimant submitted additional claims to the published account of [REDACTED] and to the unpublished account of [REDACTED], which are registered under the Claim Numbers 224448 and 224449, respectively. The CRT will treat the Claimant’s claim to the account of [REDACTED] in a separate decision. The CRT did not locate an account belonging to the Claimant’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (ICEP or ICEP Investigation), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the Rules). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources. Additionally, represented party Herbert Norman submitted additional claims to the published accounts of Hans Neumann and Herbert Neumann, which are registered under the Claim Numbers 220900 and 220888, respectively. The Court approved an award to [REDACTED 4] for the account of [REDACTED] on 9 August 2002. The CRT will treat [REDACTED 4]’s claim to the account of [REDACTED] in a separate decision.

² The Court approved awards to the Claimant and the parties he represents on 30 August 2002 for the account of Betty Schwarz and on 4 October 2002 for the account of Ernst Hanak.

Claimant stated that [REDACTED]'s children, [REDACTED], [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED], who were Jewish, were partners in the company. The Claimant indicated that [REDACTED] was born on 8 May 1896 in Brno; [REDACTED], the Claimant's paternal grandmother, was born on 9 April 1897 in Brno; and [REDACTED] was born on 10 August 1898. The Claimant further stated that *Weiss & Hanak* was one of the largest wool textile factories in Czechoslovakia before the Second World War and that it employed between 600 and 1,000 workers during the 1930s. The Claimant added that [REDACTED] was *Weiss & Hanak's* majority owner and managing partner until his death in 1919, and that [REDACTED]'s nephew, [REDACTED], was the other major partner in the firm. Additionally, the Claimant stated that members of the Hanak family joined *Weiss & Hanak* as salaried partners rather than owners.

The Claimant indicated that [REDACTED] was arrested soon after the Nazi invasion of Czechoslovakia in 1939, and submitted a certificate from the International Committee of the Red Cross, dated 1959, indicating that [REDACTED] perished in Dachau concentration camp in 1941. The Claimant further indicated that his grandmother, [REDACTED], previously resided in Vienna, Austria, with her husband and two sons: the Claimant's father, [REDACTED 2], and [REDACTED 3] (formerly [REDACTED]). The Claimant indicated that after the *Anschluss* in March 1938 his grandparents fled from Vienna to Brno, and that they later went to London, the United Kingdom, following the Munich Agreement.³ The Claimant stated that his grandparents both passed away in London, his grandfather in 1948 and his grandmother in 1989. Additionally, the represented party [REDACTED 4] (formerly [REDACTED]) indicated that his mother, [REDACTED]'s daughter, [REDACTED], née [REDACTED], and her husband fled to Shanghai, China, from Brno in 1939. The represented party [REDACTED 4] indicated that his mother passed away in 1971 in Los Angeles, California, the United States, and that his father also passed away in Los Angeles.

In a telephone conversation with the CRT on 18 March 2004, the Claimant stated that the family documents he possesses indicate that [REDACTED] was [REDACTED]'s nephew, although neither the Claimant, his father, or his uncle were sure of the exact relationship between [REDACTED] and [REDACTED], and they knew very little about [REDACTED]. The Claimant further indicated that Jacques Hanak, one of the salaried partners in *Weiss & Hanak*, was killed in Auschwitz.

The Claimant submitted an undated claim form which had been previously submitted to the United Kingdom Foreign Compensation Commission by his grandmother, [REDACTED], regarding the family's assets, and a written statement regarding "Mrs. [REDACTED], Czechoslovak Compensation Claim," dated 22 September 1953 in London, by Dr. Robert Hermann, who indicated that he had been a legal advisor to *Weiss & Hanak* from 1937 or 1938 onward. These documents indicate that *Weiss & Hanak* was worth approximately 33,000,000.00 Czech Crowns in 1938. These documents also indicate that *Weiss & Hanak* was originally owned by [REDACTED] and [REDACTED], who were full partners in the company, and that Jacques Hanak and Albert Kroner later joined the firm as salaried partners, who shared in *Weiss & Hanak's* profits and losses, but not in the capital. Additionally, [REDACTED]'s claim

³ The Munich Agreement ceded the Sudetenland region of Czechoslovakia to the German Reich on 10 October 1938.

indicates that *Weiss & Hanak* was confiscated by the Nazi authorities on 7 July 1939, and that it was subsequently acquired by the German firm *Reimann & Sohn* for less than half its value. The documents further indicate that [REDACTED] owned at least 50% of the company, and that [REDACTED] and her sister, [REDACTED], who were formerly silent partners in the company, inherited [REDACTED]'s share in equal parts after his death. The documents also indicate that [REDACTED] may have owned 20% of *Weiss & Hanak*, and that at the time that [REDACTED]'s claim was filed in the United Kingdom, [REDACTED] resided in New York, New York, the United States. Finally, [REDACTED]'s claim and Dr. Hermann's statement indicate that *Weiss & Hanak*, along with the capital accounts of its partners, was nationalized by the Czech government in 1949.

The Claimant also submitted an extract from a commercial registry, dated 22 December 1917 in Brno, indicating that *Weiss & Hanak* was a sheep wool product factory (*Schafwollwarenfabrikation*) located at Webergasse 1 and 3. This record also indicates that as of 1 December 1917, [REDACTED] and [REDACTED] were partners in the company and Jacques Hanak was an officer authorized to act on behalf of the company (*Prokurist*). The Claimant also submitted [REDACTED]'s will, dated 1918, bequeathing his 35% share of *Weiss & Hanak* to his three children: [REDACTED], [REDACTED], and [REDACTED], and naming [REDACTED] as his nephew. This will also indicates that [REDACTED] and [REDACTED] stood to inherit the company share allocated to [REDACTED]. In addition to various other documents, the Claimant also submitted his own birth certificate, his grandparents' birth and marriage certificates, as well as the birth certificates of [REDACTED 2], [REDACTED 3] (formerly [REDACTED]), and [REDACTED 4] (formerly [REDACTED]). These documents indicate that [REDACTED], née [REDACTED], was the mother of [REDACTED 3] and [REDACTED 2]; that [REDACTED 2] is the Claimant's father, and that [REDACTED], née [REDACTED], was the mother of [REDACTED 4].

Finally, the Claimant submitted records which he stated that he found in the Brno public archives under the name of *Reimann & Sohn*, the German company that "aryanized" *Weiss & Hanak*. These documents include two reports, which the Claimant stated had been made to the Czechoslovak National Bank, of foreign assets and claims in foreign currencies, dated in September 1932 (*Aufstellung ausländischer Zahlungsmittel und Forderungen in fremder Währung*) and in October 1934 (*Ausländisches Papiergeld und Forderungen an das Ausland*), and a receipt from Bank II for a deposited check, dated 1939. These records indicate that the Account Owner was *Weiss & Hanak Schafwollwarenfabrik* of Brno. According to these records, *Weiss & Hanak* held one demand deposit account at Bank I and one demand deposit account at Bank II. These records indicate that in October 1934, the balance of the demand deposit account at Bank I was 212.00 Swiss Francs ("SF") and the balance of the demand deposit account at Bank II was SF 20.40. Additionally, the cheque receipt shows that a cheque from *E. Steinmetz & Cie. S.A.* of Geneva, Switzerland, for SF 1,633.80 was deposited into the Account Owner's account at Bank II on 27 January 1939.

The Claimant indicated that he was born on 3 April 1959 in New York, New York, the United States. The Claimant is representing his father, [REDACTED 2], who was born on 23 May 1920 in Vienna, and his paternal uncle, [REDACTED 3], who was born on 14 August 1923 in Vienna.

The Claimant is also representing his father's cousin, [REDACTED 4], who was born on 17 July 1924 in Vienna.

Information Available in the Bank's Records

The auditors who carried out the investigation of Bank I and Bank II 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 any accounts held by *Weiss & Hanak*.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of April 27, 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents, dated 27 June 1938, concerning the assets of [REDACTED], née [REDACTED], and of her husband, [REDACTED], who resided in Vienna, and whose children were [REDACTED 2] and [REDACTED]. According to these documents, [REDACTED], was a silent partner (*stille Gesellschafterin*) in *Weiss & Hanak Schafwollwarenfabrik* of Brno and her interest in the company was worth 3,207,852.58 Czech Crowns or 277,511.00 Reichsmark. 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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owner. The Claimant submitted records pertaining to foreign assets and transactions reported to the *Czech National Bank*, naming the Account Owner and indicating that the Account Owner owned a demand deposit account at Bank I and a demand deposit account at Bank II. Additionally, the Claimant submitted documents including: an extract from a commercial registry, [REDACTED]'s will, a claim submitted by his grandmother to the United Kingdom Foreign Compensation Commission, and a written statement from [REDACTED], which name *Weiss & Hanak* as a wool textile factory located in Brno. Further, the Account Owner's name and location appear in the Austrian State Archive records pertaining to [REDACTED] and [REDACTED]. The CRT notes that matches to other

claimed account owners with similar family and/or business names were disconfirmed because those claimants provided different countries of residence or a different type of business than those indicated in the foreign asset registration records provided by the Claimant.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the owners of the Account Owner were victims of Nazi Persecution and that the Account Owner itself was “aryanized” by the Nazi authorities. The Claimant indicated that his grandmother, [REDACTED], his grandmother’s brother, [REDACTED], and his grandmother’s sister, [REDACTED], were Jewish. Additionally, the Claimant stated that [REDACTED] was forced to flee Austria after the *Anschluss* and provided a certificate from the International Committee of the Red Cross showing that [REDACTED] was killed in Dachau concentration camp. The represented party [REDACTED 4] indicated that his mother, [REDACTED], was forced to emigrate to Shanghai, China, from Brno in 1939. Finally, the Claimant submitted a claim form which had been submitted previously to the United Kingdom Foreign Compensation Commission by [REDACTED], indicating that *Weiss & Hanak* was confiscated by the Nazi authorities in 1939, and that it was subsequently acquired by a German firm for less than half of its value. Additionally, [REDACTED] filled out a 1938 Census form as required by the Nazi Regime.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he and the parties he represents are related to [REDACTED] and [REDACTED], who were part owners of the Account Owner and who inherited the share of the Account Owner belonging to their brother, [REDACTED], by submitting specific information and numerous documents. The Claimant submitted an extract from a commercial registry pertaining to the Account Owner, a claim form which had been previously submitted to the United Kingdom Foreign Compensation Commission by [REDACTED], a written statement by [REDACTED], [REDACTED]’s will, [REDACTED]’s and [REDACTED]’s birth and marriage certificates, as well as the birth certificates of [REDACTED 2], [REDACTED 3], [REDACTED 4], and of the Claimant himself. Additionally, the Austrian census form that [REDACTED] was required to submit to the Austrian Nazi authorities in 1938 indicates that she was a silent partner in the Account Owner and that her children were [REDACTED 2] and [REDACTED]. There is no information to indicate that the Account Owner’s owners have other surviving heirs other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner was confiscated by the Nazi authorities on 7 July 1939 and subsequently acquired by the German firm *Reimann & Sohn*; that the Claimant stated that the records pertaining to the Account Owner’s accounts at Bank I and Bank II were held in the Brno public archives under the name *Reimann & Sohn*, indicating that *Reimann & Sohn* or the Nazi authorities, or both, may have had access to the accounts; that [REDACTED] fled to London following the Munich Agreement, and [REDACTED] was forced to emigrate to Shanghai in

1939; that the Account Owner and the capital accounts of its partners were nationalized by the Czech government in 1949; that the heirs of the owners of the Account Owner would not have been able to obtain information about the accounts after the Second World War from Bank I or Bank II 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 Presumption (h), 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 owners of the Account Owner 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 [REDACTED 2], [REDACTED 3] and [REDACTED 4]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that [REDACTED 2], [REDACTED 3], and [REDACTED 4] are the children of part owners of the Account Owner. Third, the CRT has determined that it is plausible that neither the owners of the Account Owner, or the heirs of the owners of the Account Owner received the proceeds of the claimed accounts. Further, the CRT notes that [REDACTED 2], [REDACTED 3] and [REDACTED 4], as the children of part owners of the Account Owner, have a better entitlement to the accounts than the Claimant, who is the grandson of one of the part owners of the Account Owner.

Amount of the Award

In this case, the Account Owner held two demand deposit accounts. 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 ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00. 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 amount for each demand deposit account of SF 26,750.00. Accordingly, the total award amount is SF 53,500.00.

Division of the Award

According to Article 23(3) of the Rules, if the account owner was a legal or other entity, 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, [REDACTED] and [REDACTED] were part owners of the Account Owner. However, the information and documents submitted by the Claimant do not indicate the amount of each of their shares. Therefore, in the absence of evidence as to the amount of each share, and in light of Article 27 of the Rules, which directs the CRT to seek the most fair and equitable result under the circumstances, the CRT determines that [REDACTED] and [REDACTED] each owned equal shares of the Account Owner.

Additionally, Article 23(1)(c) of the Rules provides that if the account owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the account owner who have submitted a claim, in equal shares by representation. As indicated earlier, [REDACTED 2], as a child of [REDACTED], has a better entitlement than the Claimant, who is [REDACTED]'s grandchild. Therefore, [REDACTED 2] and [REDACTED 3], as the children of [REDACTED], are each entitled to one-quarter of the total award amount, and [REDACTED 4], as the child of [REDACTED], is entitled to one-half of the total 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 his claims to determine whether there are additional Swiss bank accounts to which he 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
13 October 2004