

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]

in re Account of Fritz Weisz

Claim Numbers: 501345/BW, 401363/BW

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Markus Weisz.² This Certified Award is to the published account of Fritz Weisz (the “Account Owner”) at the Geneva branch of [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 Claimants

Claimant [REDACTED 1] and his son, Claimant [REDACTED 2], each submitted Claim Forms identifying the Account Owner as Claimant [REDACTED 1]’ brother, and Claimant [REDACTED 2]’ uncle, Fritz Weisz, who was Jewish and who was born in Vienna, Austria, on 14 July 1916. According to a letter from the *American Red Cross - Holocaust and War Victims Tracing and Information Center* submitted by Claimant [REDACTED 2], Fritz Weisz and his brother, [REDACTED], were members of a Viennese Kibbutz by the name of “Blue-White.” The document states that the brothers attempted to travel by ship on the Danube River from Bratislava, Slovakia, to Palestine (now Israel) with 1,100 others, but that the transport was stopped and the passengers interned by the Nazis in Kladovo, Yugoslavia (now Serbia). According to the document, the two brothers perished on or around 13 October 1941. In a letter to the CRT, dated 16 June 2005, the widow of Claimant [REDACTED 1], [REDACTED],

¹ On 16 June 2005, [REDACTED], the widow of [REDACTED 1] (“Claimant [REDACTED 1]”), informed the CRT that Claimant [REDACTED 1] died on 7 March 2004.

² The CRT will treat the claims to these accounts in separate determinations. The CRT notes that Claimant [REDACTED 2] claimed the published account of M. Weisz but indicated that the claimed account owner’s full name was Markus (Max) Weisz (Weihs).

confirmed this information and elaborated on the ultimate fate of her husband's brothers, stating that Fritz and [REDACTED] were on the way to Palestine as part of a group of young people when they were taken off the boat they were traveling on, starved, and eventually shot and killed in Yugoslavia. Claimant [REDACTED 1] indicated that he is the only member of his family who survived the Holocaust and that Claimant [REDACTED 2] is his only son.

In support of their claims, the Claimants both submitted a copy of a certificate of attendance, which indicates that [REDACTED 1] (Claimant [REDACTED 1]), was born in Vienna, and was a student at the Academy of Visual Arts (*Akademie der Bildenden Künste*) in Vienna in 1937. Claimant [REDACTED 1] also submitted copies of documents, including his birth certificate indicating that his name was [REDACTED 1], that he was born on 5 March 1918 in Vienna and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; and an assets census declaration, dated 12 July 1938, filed by his father, indicating that [REDACTED] was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] also submitted additional documents, including a letter from the American Red Cross described in detail above.

Claimant [REDACTED 1] indicated that he was born on 5 March 1918 in Vienna. Claimant [REDACTED 2] indicated that he was born on 22 July 1952 in New York, the United States.

Information Obtained by the CRT

In its press statement that accompanied an exhibit held there from 8 July to 4 November 2001, the Jewish Museum Vienna details the history of the Kladovo transport:³

In view of the increasingly drastic persecution in Austria, now called Ostmark, and out of fear of new SS deportations, Georg Überall (later Ehud Avriel), the secretary general of *He-Haluts* and representative of Mossad in Vienna, made a grave decision in late 1939: He wanted all remaining *He-Haluts* members in Ostmark to leave the country even though no deep-sea vessels were ready to transport them to Palestine from the Danube delta. For the first time, a group of 120 *Youth Aliya* (JUAL) members also joined an illegal transport. Several hundred persons were first brought to Bratislava. A list shows that 822 people from Vienna, 130 from Berlin and 50 from Gdansk initially joined the transport. In Bratislava another 100 refugees from Prague and Bratislava were added to the group.

In the winter of 1939 the Danube was going to freeze over and the Slovak authorities intended to send the group back to the German border. Georg Überall and Mosche Agami, the Mossad officials in Vienna and Geneva respectively, urged the refugees to continue their trip even though no ship was ready for them at the mouth of the Danube. After a ten-day sojourn the refugees departed from Bratislava on the "Uranus," an excursion boat owned by the Danube Steam Boat Company (DDSG) and decorated with the swastika flag. No sooner had the boat reached the Hungarian border when it was unexpectedly stopped and turned back to its initial point of departure. On December 13 the trip started anew, but a few days later the passengers were transferred mid-river to three Yugoslav excursion boats – the "Car Nikola," the

³ See http://www.jmw.at/en/pr_kladovo.html, last visited 8 August 2007.

“Car Dušan” and the “Kraljica Marija.” Sime Spitzer, the secretary general of the Association of Jewish communities in Yugoslavia, had chartered these boats from the Yugoslav national shipping company on Mossad’s instructions. The reason for this unexpected turn was DDSG’s refusal to continue the trip on the “Uranus” as long as the reshipment at the mouth of the Danube was uncertain.

The voyage on the Yugoslav ships also ended abruptly, however, this time in the tri-state area between Yugoslavia, Rumania and Bulgaria. The Rumanian authorities prohibited the passage for the same reason. It soon became clear that the weather conditions made a continuation of the trip impossible in the foreseeable future. On December 31, 1939 the ships were directed to the winter harbor in the Yugoslav town of Kladovo near the Iron Gate. In this little town, 54 kilometers from the nearest railway station and practically cut off from the outside world in winter, the refugees waited for the ice to melt. Spitzer had to promise the Yugoslav government that he would be responsible for the group’s upkeep. At that time, thousands of refugees from Germany and Austria were also living in Yugoslavia alongside the country’s Jewish community of 71,200. Several assembly camps were set up for refugees from the Third Reich.

Cramped conditions, dirt and biting frost made life on the boats unbearable. It would be weeks before the refugees were allowed to spend even a limited amount of time on shore. Finally, the shipping company urged the group to vacate the three steamboats. The refugees subsequently moved on land – some to the village, others to barracks and tents on shore. A malaria epidemic soon broke out in the tents and barracks, which were close to big swamps. Malnutrition, dirt and insect infestations also contributed to outbreaks of scabies and furunculosis. There were also isolated cases of polio, erysipeloid and typhus.

In September 1940 the group was finally able to leave Kladovo. Their trip, however, did not lead them towards the Danube delta, but a few hundred kilometers upriver, to the Serbian town Šabac on the Sava river. The rerouting of the group was caused by a large-scale resettlement of ethnic Germans from Rumania overseen by the SS. These re-settlers were transported upstream, also on DDSG steamboats and temporarily put up in reception camps in the Serbian villages of Kladovo and Prahovo. On September 22, 1940 the refugees reached the small town of Šabac. There, older people and couples were put up in private rooms, while the majority of young people were quartered in an abandoned grain mill that had been adapted for these purposes. Although they had to observe some restrictions, the refugees were allowed to move freely about town.

After the refugees arrived in Šabac, their living conditions improved. The transport participants enjoyed greater freedom of movement and a more stable way of life. The various Zionist youth groups gained in importance. They tried to give their members encouragement through a tight social structure, strict discipline and extremely organized daily routines. Even though it was officially prohibited, many members sought to earn some pocket money through employment opportunities in Šabac. In spite of this relief, the refugees were still living on stand-by. Many times their departure was announced and they had to pack their bags and be ready.

In the final months before the German attack on Yugoslavia, the threat of war became more and more palpable in Šabac. Refugees from the Third Reich were still

streaming over the borders and the refugee community in Šabac increased to an estimated 1,400 people. Just prior to the German attack on Yugoslavia a small number of the Kladovo refugees were able to escape to Palestine with certificates. Estimates of those who survived range from 200 to 280 people. Most of the transport participants saved were members of *Youth Aliya*, i.e., 15 to 17-year olds. Some adult attendants, a number of older girls with WIZO certificates, and a small number of older people for whom relatives in Palestine had vouched, were also able to flee.

When the German army marched into Yugoslavia, more than 1,100 Jewish Kladovo refugees remained in the Serbian town of Šabac. After the attack on the Soviet Union on June 22, 1941 the German regime started a systematic extermination of Jews in the East. The Kladovo Group thus did not stand a chance of leaving Serbia in the summer of 1941. Out of all the Kladovo refugees remaining in Serbia at the time of the German attack on Yugoslavia in April 1941, only a handful managed to escape from the Nazis and survive the war.

When 21 German soldiers were killed by partisans in early October 1941, General Böhme ordered the execution of 2,100 people in retaliation – 100 people for every German killed. 805 Jews and Gypsies from the Šabac camp, which included all the men from the Kladovo Transport, fell victim to this reprisal. In January 1942 the women and children of the Kladovo Transport were sent to the Sajmište concentration camp near Belgrade where Jewish women and children from Serbia were already interned. These former fairgrounds were ill-adapted to serve as a camp. More than 7,000 women – among them the very old, children and new-borns – languished in barracks in the biting cold. Many froze or starved to death, the remaining survivors were gassed inside transport lorries.

It was not until the end of the war that some details became known of the tragic fate of the Kladovo Transport members left behind in Serbia. To this day, some family members do not know exactly how their relatives perished in Serbia.

Information Available in the Bank's Records

The Bank's records consist of ledger sheets associated with the account. According to these records, the Account Owner was *Monsieur* (Mr.) Fritz Weisz. The Bank's records do not indicate the Account Owner's domicile.

The Bank's records indicate that the Account Owner held a demand deposit account, numbered 8811, which was opened on 9 January 1941 by postal remittance (*versement postal*). The Bank's records further indicate that activity ceased on the account as of 23 January 1941 and that the account balance between December 1941 and December 1948 remained 3.70 Swiss Francs ("SF"). The Bank's records further indicate that the account was closed by fees on 31 December 1948. As noted above, the amount in the account on the date of its closure was SF 3.70.

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 Claimants in one proceeding.

Identification of the Account Owner

The name of Claimant [REDACTED 1]' brother and Claimant [REDACTED 2]' uncle matches the published name of the Account Owner.⁴ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of his claim, Claimant [REDACTED 2] submitted documents, including a letter from the American Red Cross, which provides independent verification that the person who 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 the name Fritz Weisz appears only once 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 CRT further notes that there were no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants indicated that the Account Owner was Jewish, and that he perished in October 1941, after being captured and interned by the Nazis while attempting to travel to Palestine.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]' brother, and Claimant [REDACTED 2]' uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimants submitted a copy of [REDACTED 1]'s (Claimant [REDACTED 1]') certificate of attendance at the Vienna Academy of Visual Arts and that Claimant [REDACTED 1] submitted a copy of the census declaration of his father,

⁴ The CRT notes the Claimants submitted documents alternately indicating the spelling of their family surname as "Weisz" and "Weiss." The CRT notes that these are variations of the same surname and that the use of both these name variations does not adversely affect the plausibility of the Claimants' identification of the Account Owner.

[REDACTED], which provide independent verification that the Claimants' relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed by fees on 31 December 1948.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his brother, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account. Further, the CRT notes that Claimant [REDACTED 1], as the Account Owner's brother, has a better entitlement to the account than Claimant [REDACTED 2], the Account Owner's nephew.

Amount of the Award

In this case, the Account Owner held a demand deposit account. The Bank's records indicate that the value of the account as of 31 December 1944 was SF 3.70. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 1] is entitled to the total award amount. As noted above, Claimant [REDACTED 2] is not entitled to share in the award.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
30 August 2007