

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], [REDACTED 4],
[REDACTED 5] and [REDACTED 6]
represented by Stacey E. Blaustein

and to Claimant [REDACTED 7]
represented by Walter Friedrich

in re Accounts of Friedrich Bondy

Claim Numbers: 501474/RS;¹ 601472/RS;² 401627/RS

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Hermann Bondy and Friedrich Bondy,³ and the claim of [REDACTED 7] (“Claimant [REDACTED 7]”) (together the “Claimants”) to the accounts of Auguste Bondy. This Award is to two of the published accounts of Friedrich Bondy (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank 1”), and one unpublished account of the Account Owner at the Zurich branch of the [REDACTED] (“Bank 2”) (together the “Banks”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Procedural History

¹ Claimant [REDACTED 7] (“Claimant [REDACTED 7]”) submitted an additional claim to the account of Georg Fürth, which is registered under the Claim Number 501482.

In a separate decision, the CRT awarded the accounts of George Fürth and Auguste Bondy to Claimant [REDACTED 7]. See *In re Accounts of Georg Fürth and August Bondy* (approved on 31 August 2005).

² Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted a claim, numbered B-00832, on 19 March 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601472.

In a separate decision, the CRT treat Claimant [REDACTED 1]’s claim to the account of Elsa Kafka. See *In re Account of Elsa Kafka* (approved on 17 March 2008).

³ As discussed in this award, the CRT treated Claimant [REDACTED 1]’s claims to the accounts of Hermann Bondy in a decision released on 8 April 2004 (the “April 2004 Award”). See *in re Accounts of Hermann Bondy and Friedrich Bondy*.

On 8 April 2004, the Court approved an Award to Claimant [REDACTED 1] for one demand deposit account owned by the Account Owner (the “April 2004 Award”). In the April 2004 Award, the CRT determined that the Account Owner and his brother, [REDACTED], held the following accounts:

1. one demand deposit account denominated in Swiss Francs, held at Bank 1;
2. three demand deposit accounts denominated in foreign currencies, held at Bank 1;
3. one custody account, numbered L59018, held at Bank 1; and
4. one safe deposit box, numbered S617, held at Bank 1.

In addition, in the April 2004 Award, the CRT also determined that the Account Owner held:

1. a custody account, numbered L43288, and a demand deposit account denominated in Swiss Francs at Bank 1; and
2. a custody account, numbered 11436, at Bank 2.

In the April 2004 Award, the CRT concluded that:

1. it was plausible that the Account Owner and his brother did not receive the proceeds of the first demand deposit account denominated in Swiss Francs;
2. the Account Owner and his brother received the proceeds of the three demand deposit accounts denominated in foreign currencies, the custody account numbered L59018, and the safe deposit box numbered S617; and
3. the custody account numbered L43288, the demand deposit account denominated in Swiss Francs held by the Account Owner at Bank 1, and the custody account numbered 11436 held by the Account Owner at Bank 2 would be treated in a subsequent award.

In the April 2004 Award, the CRT awarded the first demand deposit account denominated in Swiss Francs, which was held by the Account Owner and [REDACTED], to Claimant [REDACTED 1].

On 18 April 2006, the CRT amended the April 2004 Award to address the entitlement of Claimant [REDACTED 7], and to revise its conclusions regarding the accounts treated in the April 2004 Award. The Court issued an Award Amendment to Claimant [REDACTED 1] and Claimant [REDACTED 7] which addressed the three demand deposit accounts denominated in foreign currencies, and custody account numbered L59018 (the “April 2006 Award Amendment”). In the April 2006 Award Amendment, the CRT determined that:

1. Claimant [REDACTED 7] had plausibly demonstrated that he is related to the Account Owner;
2. it was plausible that the Account Owner and his brother did not receive the proceeds of the three demand deposit accounts denominated in foreign currencies, or the custody account numbered L59018; and
3. the additional custody account numbered L43288, the demand deposit account denominated in Swiss Francs held by the Account Owner at Bank 1, and the custody

account numbered 11436 held by the Account Owner at Bank 2 would be treated in a subsequent award.

In the April 2006 Award Amendment, the CRT awarded the three demand deposit accounts denominated in foreign currencies and the custody account numbered L59018 to Claimant [REDACTED 1]. The CRT further determined that Claimant [REDACTED 7], as the Account Owner's brother-in-law's son, was not entitled to a share of the Award Amendment.

The current award addresses the additional custody account numbered L43288, the demand deposit account denominated in Swiss Francs held by the Account Owner at Bank 1, and the custody account numbered 11436 held by the Account Owner at Bank 2.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted a Claim Form and an ATAG Ernst & Young claim form ("ATAG Form") identifying the Account Owner as his maternal great-uncle, and Claimant [REDACTED 7] submitted a Claim Form identifying the Account Owner as his paternal aunt's husband. The Claimants identified the Account Owner as Dr. Friedrich (Fritz) Bondy, who was born on 6 April 1875 in Mala Skalice, Czechoslovakia (now the Czech Republic) and was married to [REDACTED], née [REDACTED], in April 1922 in Vienna, Austria. Claimant [REDACTED 1] stated that his great-uncle was an attorney and that he co-owned, along with his brother, [REDACTED], a textile mill called *Jacob Bondy*, which had locations in Mala Skalice and Jaromer, Czechoslovakia (now the Czech Republic). Claimant [REDACTED 7] indicated that Dr. Friedrich Bondy also had residences at Salzgies 16 in Vienna and on Vaclavka in Prague. Claimant [REDACTED 1] indicated that Dr. Friedrich Bondy was Jewish and that he lived in Mala Skalice from 1875 to 1914, and in Vienna at Salzgies 16 from 1914 to March 1938.

Claimant [REDACTED 1] further indicated that Dr. Friedrich Bondy fled Austria for Zurich, Switzerland, in March 1938, where he lived for a time at *Pension Florhof*. Claimant [REDACTED 7] indicated that [REDACTED] died on 24 April 1938 in Vienna. According to Claimant [REDACTED 1], Dr. Friedrich Bondy left Switzerland for New York, the United States, via London, the United Kingdom, in 1938 or 1939. The Claimants indicated that Dr. Friedrich Bondy passed away in Briarcliff Manor, New York, the United States, on 14 April 1956.

In support of his claim, Claimant [REDACTED 1] submitted: (1) bank documents regarding accounts held by Dr. Friedrich Bondy at the Banks, which are described in detail below; (2) his mother's birth and death certificates, identifying her as [REDACTED], née [REDACTED], and indicating that her father was [REDACTED], factory owner of Mala Skalice; (3) his own birth certificate, indicating that [REDACTED 1]'s mother was [REDACTED], née [REDACTED], who was the daughter of [REDACTED], industrialist.

According to Claimant [REDACTED 1], Friedrich Bondy had two siblings, [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that [REDACTED]

had two children, [REDACTED] and [REDACTED], née [REDACTED]; that [REDACTED] had two children, [REDACTED 3] and [REDACTED 2], née [REDACTED]; and that [REDACTED] had one child (Claimant [REDACTED 1]). According to information provided by Claimant [REDACTED 1], [REDACTED], née [REDACTED], had three children, [REDACTED], née [REDACTED], [REDACTED], née [REDACTED], and [REDACTED]; [REDACTED] had one child, who is now deceased; [REDACTED] had two children, [REDACTED 5] and [REDACTED 4]; and [REDACTED] had two children, [REDACTED], who is now deceased, and [REDACTED 6].

Claimant [REDACTED 1] indicated that he was born on 19 November 1946 in Plzen (Pilsen), the Czech Republic. Claimant [REDACTED 1] is representing his cousins, [REDACTED 3] and [REDACTED 2], née [REDACTED] (who are the children of [REDACTED]'s son [REDACTED]); [REDACTED 4] and [REDACTED 5] (who are the children of [REDACTED]'s sister's daughter [REDACTED]), and [REDACTED 6] (who is the son of [REDACTED]'s sister's son [REDACTED]).

Claimant [REDACTED 7] submitted documents in support of his claim, including: (1) a copy of his aunt's will, dated 21 December 1935, indicating that she was married to Dr. Friedrich Bondy, and that she had a brother named [REDACTED] and a nephew named [REDACTED 7]; and (2) a copy of his aunt's death certificate, indicating that Auguste Bondy, née Fürth, was Jewish, and that she died on 24 April 1938 in Vienna.

Claimant [REDACTED 7] indicated that he was born on 10 May 1923 in Graz, Austria.

Information Available in the Banks' Records

Bank 1

Bank 1's records consist of two customer cards, and a list of accounts that were reported pursuant to the 1962 survey regarding dormant assets of foreigners and stateless persons persecuted due to race, religion or politics (the "1962 Survey").

According to these records, the Account Owner held accounts under the names Dr. Friedrich Bondy and Dr. Fritz Bondy, and had addresses in Vienna, Austria, and in Prague, Czechoslovakia, at Vaclavská.

According to Bank 1's records, the demand deposit account held in Swiss Francs was opened on 20 September 1937. Bank 1's records do not show when the account was closed, nor do these records indicate the value of this account. There is no evidence in Bank 1's records that the Account Owner or his heirs closed this demand deposit account and received the proceeds themselves.

Bank 1's records further indicate that custody account L43288 was opened in November 1931 and was closed on 15 October 1934.

Bank 2

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 Friedrich Bondy during their investigation of Bank 2. Bank 2’s documents were obtained by Claimant [REDACTED 1], who then forwarded them to the CRT.

These records consist of confirmations of receipt of securities dated 28 November 1931 and 28 July 1931. According to these records, the Account Owner was Dr. Friedrich Bondy, a lawyer who resided in Vienna at Salzgries 16. The records submitted by Claimant [REDACTED 1] indicate that the Account Owner held a custody account numbered 11436. The records also indicate that the account held a number of securities. These records do not indicate when the account was closed.

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 three claims of the Claimants in one proceeding.

The Claimants’ Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Claimant [REDACTED 1]’s great-uncle’s name and Claimant [REDACTED 7]’s aunt’s husband’s name match the published name of the Account Owner. The Claimants identified the Account Owner’s use of the title “Dr.” and his residence in Vienna and Prague, which matches unpublished information about the Account Owner contained in Bank 1’s records.

In support of his claim, Claimant [REDACTED 1] submitted documents, including bank documents regarding accounts held by Dr. Friedrich Bondy at the Banks. Claimant [REDACTED 7] also submitted documents, including a copy of his aunt’s will, indicating that she was married to Friedrich Bondy, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in Bank 1’s records as the name of the Account Owner.

The CRT notes that other claims to these accounts were disconfirmed because those claimants did not identify the Account Owner’s use of the title “Dr.” or a connection to Vienna.

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 stated that the Account Owner was Jewish, and Claimant [REDACTED 1] indicated that the Account Owner lived in Czechoslovakia and Austria before fleeing to Switzerland and the United States following the the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). Claimant [REDACTED 7] indicated that the Account Owner’s wife, who was also Jewish, died in Nazi-controlled Austria on 24 April 1938.

The Claimants’ Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 1]’s great-uncle.

Claimant [REDACTED 7] has also plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that Claimant [REDACTED 7] is the Account Owner’s brother-in-law’s son. These documents include a copy of his aunt’s will, indicating that she was married to Dr. Friedrich Bondy, and that she had a brother named [REDACTED] and a nephew named [REDACTED 7].

There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 1] is representing.

The Issue of Who Received the Proceeds

As indicated above, the current award addresses the custody account numbered L43288, the demand deposit account denominated in Swiss Francs held by the Account Owner at Bank 1, and the custody account numbered 11436 held by the Account Owner at Bank 2.

With regard to custody account numbered L43288, Bank 1’s records indicate that that custody account was closed on 15 October 1934, over three years prior to the *Anschluss*, and the CRT therefore determines that the Account Owner closed that account and received the proceeds himself.

With regard to the demand deposit account denominated in Swiss Francs held by the Account Owner at Bank 1, Bank 1’s records indicate that that account was opened on 20 September 1937, but do not indicate when that account was closed.

Given that the Account Owner resided in Austria and Czechoslovakia before fleeing to Switzerland and the United States; that there is no record of the payment of this account to the Account Owner nor any record of a date of this account’s closure; that the Account Owner and his heirs would not have been able to obtain information about this account after the Second World War from the Banks 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 (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.

With regard to custody account numbered 11436 held by the Account Owner at Bank 2, the CRT notes that the documents concerning this account were submitted by Claimant [REDACTED 1], and were not reported in the ICEP Investigation. The CRT notes that these records are dated 28 July 1931 and 28 November 1931, which is two years prior to the Nazis' rise to power in Germany and seven years prior to the *Anschluss* of Austria, the Account Owner's country of residence. Given that the only Bank records concerning this account were submitted by Claimant [REDACTED 1]; that those records are dated 28 November 1931 and 28 July 1931; that those dates predate the *Anschluss* by seven years; and that there is no indication that this account existed on or subsequent to the *Anschluss*, the CRT concludes that these records do not constitute sufficient evidence upon which to base an award.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and his cousins, represented parties [REDACTED 2], [REDACTED 3], [REDACTED 4], [REDACTED 5] and [REDACTED 6]. First, the claims are 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 great-uncle, 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 demand deposit account.

Further, the CRT notes that Claimant [REDACTED 1] and represented parties [REDACTED 2], [REDACTED 3], [REDACTED 4], [REDACTED 5] and [REDACTED 6], as the Account Owner's great-nephews and great-niece, have a better entitlement to the account than Claimant [REDACTED 7], the Account Owner's brother-in-law's son.

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 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 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.

In this case, Claimant [REDACTED 1] is representing his cousins, [REDACTED 3], [REDACTED 2], née [REDACTED], [REDACTED 4], [REDACTED 5], and [REDACTED 6].

Claimant [REDACTED 1] is representing his cousins, [REDACTED 3] and [REDACTED 2], née [REDACTED] (who are the children of [REDACTED]'s son [REDACTED]); [REDACTED 4] and [REDACTED 5] (who are the children of [REDACTED]'s daughter [REDACTED]), and [REDACTED 6] (who is the son of [REDACTED]'s son [REDACTED]).

Consequently, Claimant [REDACTED 1], as the son of [REDACTED]'s daughter [REDACTED], is entitled to one-fourth of the award amount, and represented parties [REDACTED 2] and [REDACTED 3], as the children of [REDACTED]'s son [REDACTED], are entitled to share equally one-fourth of the award amount, or one-eighth each. Represented party [REDACTED 6], as the son of [REDACTED]'s son [REDACTED], is entitled to one-fourth of the award amount, and represented parties [REDACTED 4], and [REDACTED 5], as the children of [REDACTED]'s daughter [REDACTED], are entitled to share equally one-fourth of the award amount, or one-eighth of the total award amount each.

As noted above, Claimant [REDACTED 7], as the Account Owner's brother-in-law's son, 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
26 November 2008