

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

and to Claimant [REDACTED 2]
both represented by Erez Bernstein

in re Accounts of Anna Connard

Claim Numbers: 501827/NB; 501835/NB

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Anna Connard (the “Account Owner”) over which Adolf Connard (“Power of Attorney Holder Adolf Connard”), Edgar Otto Frankel (“Power of Attorney Holder Edgar Otto Frankel”) and Johann Schlesinger (“Power of Attorney Holder Johann Schlesinger”) (together the “Power of Attorney Holders”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).

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.

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are related by marriage, submitted similar Claim Forms.

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his maternal great-grandmother’s sister-in-law, Anna Connard (Kohn), née Eisler, and identifying Power of Attorney Holder Adolf Connard as his maternal great-grandmother’s brother, Adolf Connard (Kohn). Claimant [REDACTED 1] explained that Adolf Connard’s sister, [REDACTED], née [REDACTED], was the mother of his maternal grandfather, [REDACTED].

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her paternal grandmother’s sister, and identifying Power of Attorney Holder Adolf Connard as her paternal grandmother’s brother-in-law, Adolf Connard (Kohn). Claimant [REDACTED 2]

explained that her paternal grandmother, [REDACTED], née [REDACTED], and Anna Connard, née Eisler, were sisters.

The Claimants indicated that Anna Connard ([REDACTED]), née Eisler, who was born on 10 April 1877, in Vienna, Austria, to [REDACTED] and [REDACTED], married [REDACTED], who was born on 7 October 1863 in Arad, Romania, on 11 April 1897. The Claimants further stated that Anna and [REDACTED], who were Jewish, resided at Biberstrasse 15, Vienna, in 1938, and that the couple had no children. According to the Claimants, [REDACTED] perished in Theresienstadt concentration camp on 5 December 1943, and his wife, who survived deportation to Theresienstadt concentration camp, died in Vienna on 6 March 1955.

In support of their claims, the Claimants submitted copies of two Austrian census forms, numbered 13992 and 14658, completed by the Claimants' relatives, which indicate that [REDACTED], who was born on 7 October 1863, and Anna Connard, née Eisler, who was born on 10 April 1877, were married, and that they resided at Biberstrasse 15, Vienna, Austria, at the time they declared their assets with the Nazi authorities on 12 July 1938; these records are also described in more detail below.

Claimant [REDACTED 1] also submitted copies of:

- (1) his family tree, which indicates that [REDACTED 1] is the great-grandson of [REDACTED], née [REDACTED], who was the sister of [REDACTED], and the sister-in-law of Anna [REDACTED]-Connard, née [REDACTED];
- (2) his birth certificate, which indicates that [REDACTED 1] is the son of [REDACTED], née [REDACTED];
- (3) his mother's birth certificate, which indicates that [REDACTED] was the daughter of [REDACTED];
- (4) his grandfather's marriage certificate, which indicates that [REDACTED] was the son of [REDACTED], née [REDACTED];
- (5) his great-grandmother's marriage certificate, which indicates that [REDACTED] was the daughter of [REDACTED] and [REDACTED], née [REDACTED]; and
- (6) his great-grandmother's brother's marriage certificate, which indicates that [REDACTED], who was born on 7 October 1863 to [REDACTED] and [REDACTED], née [REDACTED], married [REDACTED] on 11 April 1897.

Additionally, Claimant [REDACTED 2] submitted copies of:

- 1) her father's probate certificate, which indicates that [REDACTED]'s executrix and heir is [REDACTED];
- 2) her father's death certificate, which indicates that [REDACTED], who was born on 27 May 1907 in Austria, died on 15 April 1990 in the United Kingdom;
- 3) her paternal grandmother's marriage certificate, which indicates that [REDACTED], who was born in 1882 to [REDACTED] and [REDACTED], married [REDACTED], the son of [REDACTED] and [REDACTED], on 2 September 1906 in Vienna, Austria; and
- 4) her paternal grandmother's sister's birth certificate, which indicates that [REDACTED] was born on 10 April 1877 to [REDACTED] and [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 20 January 1959 in Caracas, Venezuela, and Claimant [REDACTED 2] indicated that she was born on 3 November 1967 in the United Kingdom.

Information provided by the Holocaust Claims Processing Office

In connection with a claim to a different account, the Holocaust Claims Processing Office (the “HCPO”) submitted a memorandum and documents regarding the Connard family, and indicating that Adolf Connard’s name was originally [REDACTED], and that he was born on 7 October 1863, in Arad, Romania, to parents [REDACTED] and [REDACTED], née [REDACTED]. The information also indicates that on 11 April 1897, [REDACTED] married [REDACTED], who was born on 10 April 1877 in Vienna, Austria, to [REDACTED] and [REDACTED], née [REDACTED], and in 1910, [REDACTED] and Anna [REDACTED] changed their surname to Connard. The HCPO further indicated that in May 1943, Adolf Connard was deported to Theresienstadt, where he perished, and that Anna Connard survived the Second World War and passed away in Vienna on 6 March 1955.

The HCPO submitted various documents, including Anna Connard’s chain of wills, indicating that Anna Connard left her residual estate to a person named [REDACTED]; who in turn named her husband [REDACTED] as her sole heir under her will; who subsequently named his son, [REDACTED], as his only heir under his will.

Information Available in the Bank’s Records

The Bank’s records consist of a customer card and printouts from the Bank’s database. According to these records, the Account Owner was *Frau* (Mrs.) Anna Connard, who resided at Biberstrasse 15, Vienna, Austria, and the Power of Attorney Holders were Adolf Connard, Edgar Otto Frankel and Dr. Johann (Hans) Schlesinger.

The Bank’s records indicate that the Account Owner held one custody account, numbered 31387, and one demand deposit account, denominated in United States Dollars (“US \$”).

The Bank’s records indicate that power of attorney was given to Adolf Connard on 2 January 1931, and to Edgar Otto Frankel and Dr. Johann Schlesinger on 2 October 1931. The Bank’s records further indicate that the accounts were closed on 3 June 1938. The amounts in the accounts on the date of their closure are unknown.

There is no evidence in the Bank’s records that the Account Owner, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Anna Connard, numbered 13992, and the assets of Adolf Connard, numbered 14658.

The records indicate that Anna Connard, née Eisler, who was a homemaker, was born on 10 April 1877, and resided at Biberstrasse 15, Vienna, Austria, along with her husband [REDACTED], who was born on 7 October 1863. According to these documents, Anna Connard registered with the Nazi authorities that she owned cash in the amount of 1,200.00 Reichsmark (“RM”) and jewelry and other valuables worth RM 21,030.00 as of 27 April 1938. Anna Connard also reported to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt.”) that jewelry in the amount of RM 940.00 had been seized (*beschlagnahmt*) from her on 10 November 1938.

The Austrian census record for Adolf Connard also contains a note from the VVSt. dated 19 July 1939, stating that Adolf and Anna Connard were assessed flight tax (*Reichsfluchtsteuer*) in the amount of RM 97,508.00, based on total assets of RM 339,610.00. In addition, Anna Connard’s 1938 Census record indicates that she reported on 10 December 1938 that she had paid an atonement tax (*Sühneabgabe* or *Sühneleistungsbetrag*) of RM 4,450.00 to the Reich.

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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants’ relative’s name, city and country of residence matches the published name, city and country of residence of the Account Owner, and the Claimants’ relative’s name matches the published name of Power of Attorney Holder Adolf Connard. The Claimants identified the Account Owner’s street address, which matches unpublished information about the Account Owner contained in the Bank’s records.

In support of their claims, the Claimants submitted documents, including Adolf Connard's marriage certificate, and Anna Connard's birth certificate, as well as the Austrian census form numbered 13992, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided at the same street address recorded in the Bank's records as the name and street address of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Adolf Connard, and indicates that his date of birth was 7 October 1863 and place of birth was Arad, Romania, which matches the information about Power of Attorney Holder Adolf Connard provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Finally, the CRT notes that the last living beneficiary under Anna Connard's chain of wills, [REDACTED], did not submit a claim to the CRT, and the CRT therefore notes that there are no other claims to these accounts.

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 lived in Nazi-occupied Austria, and that she survived deportation to the Theresienstadt concentration camp, but that her husband perished in Theresienstadt. The CRT notes that both the Account Owner and her husband were required to register their assets pursuant to the 1938 Census.

As noted above, a person named Adolf Connard was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s maternal great-grandmother's sister-in-law, and Claimant [REDACTED 2]'s paternal grandmother's sister. These documents include Claimant [REDACTED 1]'s birth certificate, indicating that his mother was [REDACTED], née [REDACTED]; his mother's birth certificate, indicating that the father of [REDACTED], née [REDACTED], was [REDACTED]; the marriage certificate of his grandfather, which indicates that [REDACTED] was the son of [REDACTED], née [REDACTED]; the marriage certificate of his great-grandmother, which indicates that [REDACTED], née [REDACTED], was the daughter of [REDACTED] and [REDACTED], née [REDACTED]; and the marriage certificate of his great-grandmother's brother, which indicates that [REDACTED] was the son of [REDACTED] and [REDACTED], née [REDACTED], and that he married [REDACTED].

The CRT also notes that the HCPO submitted Anna Connard's chain of wills, indicating that Anna Connard left her residual estate to a person named [REDACTED]; who in turn named her husband [REDACTED] as her sole heir under her will; who subsequently named his son, [REDACTED], as his only heir under his will. The CRT notes that none of these persons has filed a claim with the CRT, and that neither Claimant is included in Anna Connard's will. However, the CRT has not made any determination as to the validity of the wills submitted.

Further, according to Article 24 of the Rules, the rights of individuals to an Account who have not submitted claims to the CRT will, as a general rule, not be considered under the Claims Resolution Process authorized by these Rules. Therefore, the CRT notes that other heirs of the Account Owner may be more entitled, but that because they have not submitted a claim to the CRT, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision. Finally, the CRT notes that Claimant [REDACTED 2], as the granddaughter of the Account Owner's sister, is a descendant of the Account Owner's parents. Given that the Account Owner had no descendants herself, Claimant [REDACTED 2] would have been entitled to the account under the CRT's Rules absent the Account Owner's will.

The Issue of Who Received the Proceeds

The Bank records indicate that the Account Owner held one custody account and one demand deposit account, both of which were closed on 3 June 1938.

Given that there is no record of the payment of the Account Owner's accounts to her or to the Power of Attorney Holder; that the accounts were closed after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"); that the Account Owner was deported to Theresienstadt; that the Account Owner and her heirs would not have been able to obtain information about their accounts after the Second World War from the Bank 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the accounts proceeds were not paid to the Account Owner, the Power of Attorney Holder, 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 Claimant [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her paternal great-aunt, and this relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 2], as the Account Owner's sister's granddaughter and great-niece of the Account Owner, has a better entitlement to the account than Claimant [REDACTED 1], the Account Owner's husband's sister's great-granddaughter.

Amount of the Award

In this case, the Account Owner held one custody account and 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”), and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00. 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 189,250.00.

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 2], who is a descendant of the Account Owner’s parents, has a better entitlement to the accounts than Claimant [REDACTED 1], who is related to the Account Owner by marriage only. Therefore, Claimant [REDACTED 2] is entitled to the total award amount.

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
18 December 2008