

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also acting on behalf of her sister [REDACTED 3]
represented by Stephen Harnik

in re Accounts of Fritz Deutsch

Claim Numbers: 207010/MW; 207011/MW; 222517/MW; 600276/MW¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Fritz Deutsch (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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]

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as her mother’s cousin, Fritz Deutsch, who was born on 21 March 1901 in Olomouc or Olmütz, Austria-Hungary, and was unmarried. Claimant [REDACTED 1] explained that Fritz Deutsch was the son of [REDACTED], the brother of the Claimant’s maternal grandfather, [REDACTED]. Claimant [REDACTED 1] stated that Fritz Deutsch, who was Jewish, resided

¹ Claimant [REDACTED 1] submitted a claim, numbered B-01660, on 5 January 1999, 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 600276.

² The CRT notes that, 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”), Fritz Deutsch is indicated as the owner of one account. Upon careful review, the CRT has concluded that the Bank’s record indicates that Fritz Deutsch owned two accounts.

initially in Olomouc, where he was the co-owner of a chocolate factory, and later in Vienna, Austria, where he owned a leather goods store. According to Claimant [REDACTED 1], Fritz Deutsch emigrated to the West during the Second World War. Claimant [REDACTED 1] stated that she did not know when her relative died.

In support of her claim, Claimant [REDACTED 1] submitted the birth certificate of Fritz Deutsch showing that his father was [REDACTED]; the birth certificates of [REDACTED] and [REDACTED] indicating that their father was [REDACTED]; the marriage certificate of her mother, [REDACTED], indicating that her father was Adolf Deutsch; and her own birth certificate indicating that her mother's maiden name was Paulina Deutsch. Claimant [REDACTED 1] indicated that she was born on 30 February 1929 in Mosovce, Czechoslovakia.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, an ATAG Ernst & Young claim form in 1998, and a claim to the Holocaust Claims Processing Office ("HCPO") in 1999, asserting her entitlement to a Swiss bank account owned by Fritz Deutsch.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her maternal uncle, Friedrich Ephraim Deutsch, also known as Fritz Deutsch, who was born on 14 January 1906 in Vienna, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] stated that her uncle had one son, [REDACTED]. Claimant [REDACTED 2] further stated that her uncle, who was Jewish, resided in Vienna, where he was a merchant. According to Claimant [REDACTED 2], her uncle fled Vienna in 1938 to Palestine. Claimant [REDACTED 2] stated that her uncle died in Israel.

In support of her claim, Claimant [REDACTED 2] submitted her birth certificate indicating that her mother was [REDACTED], née [REDACTED], and that she was born in Vienna. Claimant [REDACTED 2] indicated that she was born on 4 June 1919 in Vienna. Claimant [REDACTED 2] is representing her sister, [REDACTED 3], née [REDACTED], who was born on 27 June 1922 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Fritz Deutsch, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account and a custody account, numbered V 3574. According to the Bank's record, the demand deposit account was opened on 22 January 1933 and closed on 20 June 1938, and the custody account was closed on 30 June 1938. The Bank's record does not indicate the value of these accounts. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s cousin's name and country of residence and Claimant [REDACTED 2]'s uncle's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 1] and Claimant [REDACTED 2] identified their relative's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. In support of her claim, Claimant [REDACTED 1] submitted documents, including the birth certificate of Fritz Deutsch, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that the name Fritz Deutsch 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 notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, an ATAG Ernst & Young claim form in 1998 and an HCPO claim form in 1999, asserting her entitlement to a Swiss bank account owned by Fritz Deutsch, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 1] has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

Furthermore, the CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to these accounts, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each 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. Both Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner emigrated to the West during the Second World War and Claimant [REDACTED 2] stated that the Account Owner fled Vienna to Palestine in 1938.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s cousin and Claimant [REDACTED 1]'s uncle. Claimant [REDACTED 1] submitted the birth certificate of Fritz Deutsch indicating that his father was [REDACTED]; the birth certificates of [REDACTED] and [REDACTED] indicating that their father was [REDACTED]; the marriage certificate of her mother, [REDACTED], indicating that her father was [REDACTED]; and her own birth certificate indicating that her mother's maiden name was [REDACTED].

The CRT notes that Claimant [REDACTED 2] identified unpublished information about the Account Owner as contained in the Bank's record, and that Claimant [REDACTED 2] submitted a copy of her birth certificate, which provides independent verification that Claimant [REDACTED 2]'s maternal relatives had the same family name and resided in the same city 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 Claimant [REDACTED 2] as a family member, and all this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that one Claimant stated that the Account Owner fled Austria during the Second World War and that the other Claimant stated that the Account Owner fled Austria in 1938; that the Account Owner's accounts were closed in June 1938, after the incorporation of Austria into the German Reich in March 1938 (the "*Anschluss*"); that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner may have fled his country of origin due to Nazi persecution; that he may have had relatives remaining in his country of origin and may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety; that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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, as amended ("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.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. 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 her mother's cousin, while Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her uncle, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF") and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average of the 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 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the award amount, and Claimant [REDACTED 2] and her sister, whom she represents, are together entitled to one-half of the total award amount.

Further, according to Article 23(1)(e) 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 grandparents who have submitted a claim, in equal shares by representation. As indicated above, Claimant [REDACTED 2] is representing her sister, [REDACTED 3]. Accordingly, Claimant [REDACTED 2] and her sister are each entitled to one-fourth of 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
12 May 2005