

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

**in re Accounts of Michael Flörsheim, Irene Elisabeth Stern,
and Martha Recha Flörsheim**

Claim Number: 207323/SJ

Award Amount: 514,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Michael Flörsheim, Martha Recha Flörsheim and of the *Martha-Stiftung*, and to the unpublished accounts of Carl Alexander Flörsheim and Ruth A. Flörsheim.¹ This Award is to the published accounts of Michael Flörsheim (“Account Owner Michael Flörsheim”), Martha Recha Flörsheim (“Account Owner Martha Flörsheim”) and to the unpublished account of Irene Elisabeth Stern (“Account Owner Stern”) (together, the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”). Furthermore, this Award addresses two published accounts owned by Alfred Wiener (“Account Owner Wiener”) to which Carl Alexander Flörsheim is listed as a Power of Attorney Holder (“Power of Attorney Holder Flörsheim”), also held at 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 Claimant

The Claimant submitted a Claim Form identifying Account Owner Michael Flörsheim as his paternal great-grandfather, Michael Flörsheim, and Account Owner Martha Flörsheim as his paternal great-grandmother, Martha Recha Flörsheim, née Philipp. In his Claim Form, the Claimant stated that Michael and Martha Flörsheim, who were Jewish, were the parents of Carl Alexander Flörsheim (the Claimant’s paternal grandfather) and Ruth Flörsheim. In a telephone conversation with the CRT on 1 November 2002, the Claimant identified Account Owner Stern as his great-aunt, Irene Elisabeth Stern, née Flörsheim, the third child of Michael and Martha Flörsheim, and stated that she was married to [REDACTED].

¹ The names of Carl Alexander Flörsheim and Ruth A. Flörsheim were published on the February 2001 list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi persecution (the “ICEP List”) as Power of Attorney Holders to the accounts of Martha Recha Flörsheim and of the *Martha-Stiftung*.

The Claimant stated that his grandfather, Carl Alexander Flörsheim, was born in 1909 in Hamburg, Germany. The Claimant indicated that his grandfather, who was also Jewish, was a lawyer and a businessman who resided in Hamburg until 1937, when he fled to Amsterdam, The Netherlands. The Claimant indicated that his grandfather was married to [REDACTED], née [REDACTED]. The Claimant stated that he believed that his grandfather opened an account in a Swiss bank under the name *Martha-Stiftung* (“Martha Foundation”) in honor of his mother, Martha Flörsheim. The Claimant further indicated that Carl and [REDACTED] Flörsheim had one son, [REDACTED] (the Claimant’s father), who was born on 19 May 1938 in Amsterdam. The Claimant indicated that his grandfather died in Amsterdam in 1941 and that his grandmother died in 1997.

The Claimant stated his father, [REDACTED], died in Zurich, Switzerland, on 22 September 1992. In a telephone conversation with the CRT on 12 July 2001, the Claimant stated that his great-grandmother, Martha Flörsheim, fled Germany after the Nazis came to power, and that she died in Israel sometime between 1986 and 1991. The Claimant was unable to provide information regarding the fate of his great-aunts, Ruth Flörsheim and Irene Elisabeth Stern, née Flörsheim. The Claimant indicated that he was born on 26 December 1928 in Santa Monica, California, the United States.

Information Available in the Bank’s Records

The Bank’s records consist of power of attorney forms, instructions concerning the mailing of bank correspondence, a certificate from the Ticino cantonal authorities, correspondence, and printouts from the Bank’s database.

Account Owner Michael Flörsheim

The Bank’s records indicate that one of the Account Owners was Michael Flörsheim, who resided at Beneckestrasse 13 in Hamburg, Germany. According to these records, Account Owner Michael Flörsheim held a demand deposit account, numbered 32687, which was opened on 22 August 1927. The Power of Attorney Holder to this account was Martha Flörsheim, née Philipp. The Bank’s records show that this account was closed, but do not indicate the closure date. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank’s records that Account Owner Michael Flörsheim, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

Account Owner Martha Flörsheim

The Bank’s records indicate that Martha Flörsheim, née Phillip, held two custody accounts, numbered 34058 and 34496. The Bank’s records indicate that Account Owner Martha Flörsheim resided in Lugano-Crocifisso, Switzerland, in the early 1930s, and that she used addresses in Hamburg, at Parkallee 15 and Klosterallee 24. Furthermore, the Bank’s records show that Account Owner Martha Flörsheim used temporary addresses in Berlin, Germany, and in Basel, Switzerland.

With regard to custody account 34058, the Bank’s records indicate that the account was opened no later than 8 January 1930, and was initially owned by the *Martha-*

Stiftung (“Martha Foundation”), which was represented by Martha Flörsheim and *cand. iur.* (law student) Carl A. Flörsheim. The Bank’s records indicate that this custody account was later transferred to the ownership of Martha Flörsheim on an unknown date. The Bank’s records indicate that Account Owner Martha Flörsheim ordered the Bank to direct the bank correspondence to *Fräulein* (Miss) Ruth Flörsheim, who resided in Amsterdam, The Netherlands, at Hacquartstraat 3 and later at Minervalaan 24.

The Bank’s records indicate that the Power of Attorney Holder to custody account 34058 was originally M. Flörsheim. The Bank’s records indicate that on 22 September 1931, Martha Flörsheim granted power of attorney to custody account 34058 to Michael Flörsheim and Carl A. Flörsheim. According to the Bank’s records, Power of Attorney Holder Carl A. Flörsheim used addresses in Hamburg at Parkallee 15 and Klosterallee 24, and in Freiburg im Breisgau, Germany, at Talstrasse 54. Furthermore, the power of attorney forms in which Account Owner Martha Flörsheim granted powers of attorney to M. Flörsheim and Carl A. Flörsheim contain handwritten, undated notations indicating that those power of attorney holders were deceased.

With regard to custody account number 34496, the Bank’s records indicate that the account was opened no later than 15 January 1929. The records indicate that the Power of Attorney Holders to this account were Account Owner Martha Flörsheim’s husband, M. Flörsheim, and Carl A. Flörsheim.

The Bank’s records do not show when custody accounts numbered 34058 and 34496 were closed, or to whom they were paid, nor do these records indicate the value of these accounts. 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 find these accounts in the Bank’s system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank’s records that Account Owner Martha Flörsheim or her heirs closed the accounts and received the proceeds themselves.

Finally, the Bank’s records also contain correspondence from 1938 between Carl A. Flörsheim and [REDACTED] of the Bank. This correspondence indicates that Carl A. Flörsheim resided in Amsterdam at Zuider Amstel Laan 209 during 1938. The letters show that Carl A. Flörsheim bought and sold securities from and to the Bank on a regular basis. These transactions were executed on Carl A. Flörsheim’s own behalf. These letters, however, do not indicate whether Carl A. Flörsheim held an account with the Bank. These letters also contain personal information about Carl A. Flörsheim, including information about his ailing health and news of the birth of his son on 19 May 1938.

Account Owner Stern

The Bank’s records indicate that Irene Elisabeth Stern held a custody account, numbered 38836, that was opened in December 1934. The Bank’s records indicate that the Power of Attorney Holders to this account were [REDACTED] and Carl A.

Flörsheim. The Bank's records further indicate that Carl A. Flörsheim resided in Amsterdam at Minervalaan 24 and that Account Owner Stern ordered the Bank to direct all correspondence to Carl A. Flörsheim. The Bank's records show that the account was closed, but do not indicate the closure date. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that Account Owner Stern, the Power of Attorney Holders or their heirs closed the account and received the proceeds themselves.

Account Owner Wiener

The Bank's records indicate that Alfred Wiener, who resided in Berlin, Germany, held two accounts and indicate the types of accounts he held. Furthermore, the Bank's records indicate that Carl Alexander Flörsheim and *Frau* (Mrs.) Käte Wiener (also known as *Frl. (Fräulein* or Miss) Kate Guttman) each held a power of attorney to these accounts. The Bank's records also indicate the profession of Account Owner Wiener and the city of residence, country of residence and street address for each of the three individuals listed in the Bank's records. Finally, the Bank's records contain the dates that the power of attorney forms were signed, as well as signature samples of Account Owner Wiener, [REDACTED], and Power of Attorney Holder Flörsheim.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Michael Flörsheim as his great-grandfather. His great-grandfather's name matches the published name of Account Owner Michael Flörsheim, and his great-grandmother's name matches the published name of the Power of Attorney Holder. The Claimant identified his great-grandfather's place of residence as Hamburg, which matches published information about Account Owner Michael Flörsheim contained in the Bank's records.

Furthermore, the Claimant has plausibly identified Account Owner Stern as his great-aunt, the sister of his grandfather. His great-aunt's name matches the unpublished name of Account Owner Stern and the name of his grandfather, Carl Alexander Flörsheim, matches the name of one of the Power of Attorney Holders. Additionally, the second Power of Attorney Holder, [REDACTED], was identified by the Claimant as Account Owner Stern's husband.

Additionally, the Claimant has plausibly identified Account Owner Martha Flörsheim as his great-grandmother, and the *Martha-Stiftung* as a foundation created by her and his grandfather Carl A. Flörsheim. His great-grandmother's name matches the published name of Account Owner Martha Flörsheim and his great-grandfather's name, Michael Flörsheim, matches the published name of one of the Power of Attorney Holders. Additionally, the Claimant identified the remaining Power of Attorney Holders as his grandfather, Carl A. Flörsheim, and his grandfather's sister, Ruth Flörsheim. Furthermore, the Claimant identified his great-grandmother's maiden name as Phillip, which also matches published information contained in the Bank's records. Moreover, the Claimant identified his grandfather as a lawyer and a businessman, which matches unpublished information contained in the Bank's

records. The Claimant also identified the birthday of his father, [REDACTED], as 19 May 1938, which matches unpublished information contained in the Bank's records.

Finally, in regards to the accounts held by Account Owner Wiener, the Claimant has plausibly identified Power of Attorney Holder Flörsheim as his grandfather, Carl Alexander Flörsheim. The Claimant did not, however, identify Account Owner Wiener or the second individual who held a power of attorney to these accounts. The CRT notes that under Swiss law, a power of attorney holder is not considered to be the owner of an account. Furthermore, after a power of attorney holder dies, his or her powers in an account no longer exist, and they do not pass to his or her heirs.

In support of his claim, the Claimant submitted documents, including a family tree detailing his relationship to the Account Owners and the Power of Attorney Holders. The CRT notes that the other claims to these accounts were disconfirmed because the information provided by those claimants contained different names, different genders, and/or different cities of residence than the information about the Account Owners contained in the Bank's records.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they were forced to flee Germany.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents demonstrating that the Account Owners are his great-grandmother, his great-grandfather and his great-aunt. There is no information to indicate that the Account Owners have other surviving heirs.

The Claimant has not indicated that he is related to Account Owner Wiener, although he has plausibly demonstrated that Power of Attorney Holder Flörsheim is his grandfather, Carl Alexander Flörsheim. As noted above, under Swiss law, a power of attorney holder is not considered to be the owner of an account. After a power of attorney holder dies, his or her powers in an account no longer exist, and they do not pass to his or her heirs. Therefore, although the Claimant has plausibly identified Power of Attorney Holder Flörsheim, since he has not identified Account Owner Wiener as his relative, and there is no evidence in the Bank's records that Power of Attorney Holder Flörsheim and Account Owner Wiener were related, the Claimant is not entitled to these accounts.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that there is no record of the payment of the Account Owners' accounts to them; that the accounts are marked closed, but with unknown closure dates; that the Account Owners and their 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 account proceeds were not paid to the Account Owners, the Power of Attorney Holders, 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 the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were members of his family, as described above, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Claimant is entitled to the demand deposit account held by Account Owner Michael Flörsheim, the two custody accounts held by Account Owner Martha Flörsheim, and the custody account held by Account Owner Stern.

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 2,140.00 Swiss Francs, and the average value of a custody account was 13,000.00 Swiss Francs. Given that the Account Owners held one demand deposit account and three custody accounts among them, the total 1945 average value of the accounts at issue is 41,140.00 Swiss Francs. 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 514,250.00 Swiss Francs.

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 claim 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
28 May 2004