

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Thomas Fischer Weiss¹

in re Account of Max Frenkel

Claim Number: 206277/AY

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Thomas Fischer Weiss (the “Claimant”) to the account of Max Frenkel (the “Account Owner”) at the Chiasso branch of [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandfather, Max Frenkel, who was born in Buchach, Austria, on 8 June 1876 and married to Clothilde (Konicia) Fruchter on 7 June 1903 in Vienna, Austria. The Claimant stated that his grandparents had two children: Walter Frenkel, who was born in 1904 and perished in Dachau in 1945; and Erna Frenkel, the Claimant’s mother, who was born in 1909 and died in New York, the United States, in 1954. The Claimant further stated that his grandfather, who was Jewish, was a merchant who manufactured and sold raincoats, and whose business was located at Werdertorgasse 15 in Vienna. The Claimant indicated that his grandfather resided at Hörlgasse 9, in Vienna IX, until 1939, when he was forced by the Nazis to sell the building and to move out; and that he then resided in Vienna at Hotel de France at Schottenring 3, Wipplingerstrasse 32, and Grosse Mohrengasse 40. The Claimant added that his grandfather’s assets were Aryanized and that he was deported to Riga, Latvia, in January 1942, and was never heard from again. The Claimant indicated that his grandfather was officially declared to be deceased in 1949.

In support of his claim, the Claimant submitted a copy of his birth certificate, indicating that he is the son of Erna Fischer, née Frenkel, who was born in Vienna in 1909 to Max and Konicia Frenkel. The Claimant indicated that he was born on 17 October 1934 in Prague, Czechoslovakia.

¹ The Claimant indicated in his Claim Form that he wanted to represent his cousin, George Philipp Frenkel, who is Walter Frenkel’s son. In a letter, dated 16 May 2002, which was sent by the Claimant to the CRT, the Claimant informed the CRT that his cousin passed away on 24 March 2001.

Information Available in the Bank's Records

The Bank's records consist of an internal memorandum, dated 19 November 1938, referring to the Bank's practice of sending account owners their account statements, together with a request to confirm receipt thereof. This internal memorandum contains a list of accounts whose owners did not confirm receipt of the statement sent to them by the Bank. The Bank's records indicate that the Account Owner was Max Frenkel, who resided in Vienna, Austria. The Bank's records further indicate that the Account Owner held a demand deposit account, which was still open on 31 December 1937.

The Bank's records do not show if or when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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 (the "ICEP") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Max Frenkel. These records indicate that Max Frenkel was born on 8 June 1876, lived at Hörlgasse 9 in Vienna, and was a merchant who owned a company located at Werdertorgasse 15 in Vienna and another one in Milan, Italy. The records also state that Max Frenkel had to sell his house located at Hörlgasse 9 in Vienna, and that his company was taken over by the Nazis in June 1941. These records further indicate that Max Frenkel had two children: Walter Frenkel and Erna Fischer, née Frenkel, who were both living outside Austria. According to these records, as of 27 April 1938 Max Frenkel owned assets totaling 33,951.00 Reichsmarks.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His grandfather's name and place of residence match the published name and place of residence of the Account Owner. The CRT also notes that the information provided by the Claimant matches the data about his grandfather contained in the Austrian State Archives, including his date of birth, his occupation, his residential address at Hörlgasse 9 in Vienna, his business address at Werdertorgasse 15 in Vienna, and the fact that he had to sell his house and the

Nazis confiscated his company. The Claimant also identified that his grandfather had two children, Walter and Erna, which also matches the information in the Austrian State Archives. In support of his claim, the Claimant submitted a copy of his birth certificate, indicating that he was the son of Erna Fischer, née Frenkel, who was born in Vienna in 1909 to Max and Konicia Frenkel, providing independent verification that the person who is claimed to be the Account Owner resided in the same city recorded in the Bank's records as the residence of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Frenkel, who was born on 8 June 1875 and lived in Vienna, Austria, which is consistent with the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he was forced to sell his house in Vienna, that his other assets were Aryanized, and that he was deported to Latvia in 1942, and never heard from again. As noted above, a person named Max Frenkel was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents, including his birth certificate indicating that he is the son of Erna Fischer, née Frenkel, who was born in Vienna in 1909 to Max and Konicia Frenkel, demonstrating that the Account Owner was his grandfather. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss* (Annexation of Austria), Austrian citizens, who are Jewish, report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled banks. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; that the Account Owner was forced to sell his house in Vienna, that his other assets were aryanized, and that he was deported to Latvia in 1942, and never heard from again; 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 in this case 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 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 Owner was his grandfather, and that relationship justifies 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. 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. 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 26,750.00 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
31 December 2003