

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED 2]
represented by Dr. Walter Friedrich

in re Accounts of Alexander Freud and Harry Freud

Claim Numbers: 501390/AC; 501420/AC; 501437/AC²

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the accounts of Paula Winternitz,³ Alexander Freud, and Harry Freud. This Award is to the published accounts of Alexander Freud (“Account Owner Alexander Freud”) and Harry Freud (“Account Owner Harry Freud”) (together the “Account Owners”) 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 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 the Account Owners as his paternal great-uncle, Alexander Freud, and his father’s cousin, who was Alexander Freud’s son, Dr. Harry Freud. According to information provided by the Claimant, Alexander Freud was born on 19 April 1866 in Vienna, Austria, and had several siblings, including the renowned psychoanalyst Sigmund Freud, who was the Claimant’s paternal grandfather. The Claimant indicated that Alexander Freud was married to [REDACTED], née [REDACTED], and their only child, Harry Freud, was born on 21 December 1909 in Vienna. The Claimant stated that Harry Freud was married to [REDACTED], née [REDACTED], (also known as [REDACTED]), with whom he had two children. The Claimant explained that his relatives, who were Jewish, were publishers, and that they owned a publishing company called *Verlag Allgemeiner Tarif-Anzeiger A. Freud*

¹ In a letter dated 12 March 2004, the Claimant’s son, [REDACTED 2], notified the CRT that the Claimant had passed away in February 2004. The Claimant’s son provided the CRT with his father’s will and death certificate.

² The Claimant submitted an additional claim to the accounts of Sigmund Freud, which is registered under the Claim Number 501441. The CRT will treat the claim to these accounts in a separate decision in this set.

³ The CRT will treat the claim to this account separately.

Zentralverkaufsstelle für Tarife, which was located at Biberstrasse 16 in Vienna, and that they resided at Biberstrasse 14. According to information provided by the Claimant, his relatives resided in Vienna until 1938, when they fled to London, England, and eventually to North America. The Claimant indicated that Alexander Freud passed away in 1943 in Toronto, Canada, and that Harry Freud passed away in 1948 in New York, the United States.

The Claimant stated that he was born on 3 April 1921 in Vienna. The Claimant represents his son, [REDACTED 2].

Additional Information Obtained by the CRT

The CRT notes that the life of Sigmund Freud, the brother of Alexander Freud, has been the subject of numerous volumes of scholarly and historical works. In considering the Claimant's claim, the CRT has reviewed materials available in the Freud Museum in London, the United Kingdom; in contemporaneous newspaper articles written about Sigmund Freud's flight from Austria; as well in as books and articles cited in various reference guides, including numerous sites on the world-wide web.

According to these sources, after extensive intervention on his behalf, and after having most of his assets confiscated and paying flight tax (*Reichsfluchtsteuer*), Alexander Freud's brother, Sigmund Freud was able to escape Austria on 4 June 1938, eventually emigrating to England, but his four sisters who remained in Vienna were less fortunate. In a letter, dated 12 November 1938, just two days after the *Kristallnacht* ("night of broken glass") pogrom, Sigmund Freud wrote to Marie Bonaparte of his concern for his four elderly sisters, who remained in Vienna. "The latest horrifying events in Germany aggravate the problem of what to do about the four old women between seventy-five and eighty. To maintain them in England is beyond our powers. The assets we left behind for them on our departure, some 160,000 Austrian schillings, may have been confiscated already, and are certain to be lost if they leave."⁴ Bonaparte visited Sigmund Freud in London on 4 December 1938 to discuss ways to help them. Ultimately, neither Sigmund Freud nor Bonaparte could save the women. Eighty-two-year-old [REDACTED] and eighty-year-old [REDACTED] were killed in Treblinka; eighty-four-year old [REDACTED] died in Auschwitz, and eighty-one-year-old [REDACTED] perished in Theresienstadt.⁵

⁴ The Diary of Sigmund Freud, 1929 – 1939: A Record of the Final Decade. Translated, Annotated, with an Introduction by Michael Molnar (The Freud Museum, London) at 252 (quoting letter from Freud to Marie Bonaparte 12.11.1938).

⁵ Martin Gilbert, *The Holocaust: A History of the Jews of Europe during the Second World War* (NY: Holt, Rinehart & Winston, 1985) at 475-476. According to Gilbert, "An eye-witness has recorded how, at Treblinka, after the arrival of a train from Vienna, Sigmund Freud's sister approached SS Second Lieutenant Kurt Hubert Franz, who that day was supervising the arrival of the victims, and 'asked to be given lighter work on account of her poor health.' Franz 'assured her that her arrival in Treblinka was a mistake, in view of her poor health, and that as soon as she had had her bath, she would be put on the first available train back to Vienna.'" Id.

Information Available in the Bank's Records

The Bank's records consist of excerpts from the Bank's customer lists, excerpts from the Bank's opening and closing register of numbered accounts, and documents from the Swiss Clearing Office relating to the 1945 freeze of assets held in Switzerland by citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), and a list of dormant accounts. According to these records, the Account Owners were Dr. Harry Freud and Alexander Freud, who resided at Biberstrasse 16 in Vienna, Austria. The Bank's records also indicate that Account Owner Harry Freud had an address in Davos, Switzerland. The Bank's records indicate that the Account Owners held a joint demand deposit account, numbered 61299, and that Account Owner Harry Freud held an account, the type of which is not indicated, numbered 66079.

According to these records, the balance of the joint demand deposit account 61299, as of 17 February 1945, was 144.50 Swiss Francs ("SF"). The Bank's records indicate that this account was frozen in the 1945 Freeze and that its balance decreased successively to SF 115.00 on 10 January 1951, and to SF 95.00 by 14 June 1955, when the account was unfrozen. The Bank's records indicate that this account was transferred to a suspense account for dormant assets on 8 November 1963. 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") indicated that this account remains in the Bank's suspense account.

With respect to the account of unknown type held by Account Owner Harry Freud, the Bank's records indicate that the account was listed on a closing register for numbered accounts and was transferred to London on 10 September 1938. The amount in the account on the date of its transfer is unknown.

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 Alexander Freud, numbered 08053, and the assets of Dr. Harry Freud, numbered 4955. These records indicate that Professor Alexander Freud was born on 19 April 1866 in Vienna, that he was married to [REDACTED], née [REDACTED], and that he resided at Biberstrasse 14/in Vienna. According to his 1938 Census submission, Dr. Harry Freud, the son of Alexander Freud and [REDACTED], was born on 21 December 1909 and resided at the same address as his parents. These records show that Alexander Freud and Harry Freud owned a company called *Verlag Allgemeiner Tarif-Anzeiger A. Freud Zentralverkaufsstelle für Tarife*, of which Alexander Freud owned 80 percent and Harry Freud 20 percent. Harry Freud's total declared assets consisted of this share, worth 2,666.67 Reichsmark ("RM") and a credit balance of RM 7,735.62 at the company. Alexander Freud's asset declaration, signed 16 July 1938, shows that, in addition to his share in the publishing firm, he owned a considerable amount of financial

assets and personal valuables. The flight tax authorities (*Reichsfluchtsteuerstelle*) figured his total assets as of 1 January 1938 to amount to RM 271,624.00 and assessed flight tax (*Reichsfluchtsteuer*) of RM 67,906.00.

The file further includes documents concerning a criminal case against Alexander Freud and his family for failing to declare some RM 86,000 worth of assets on their 1938 Census submissions and for trying to get these assets smuggled abroad after they left Austria for Switzerland sometime in or before July 1938. The documents describe how an Englishman, Captain Hampton, who was to move these assets abroad cooperated with the Nazi authorities, resulting in the confiscation of valuables worth RM 62,524 before they could be brought across the border and only jewelry worth RM 23,600 was successfully smuggled to Switzerland. However, in the course of the proceedings, a portion of this jewelry, worth RM 9,688, was brought back from Switzerland to Austria and confiscated. In addition, the financial assets declared on Alexander Freud's 1938 Census submission and held at the *Creditanstalt* in Vienna were impounded by the Nazi authorities.

The 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 three claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's relatives' names and city and country of residence match the published names and city and country of residence of the Account Owners. The Claimant identified the Account Owners' street address, the professional title of Account Owner Harry Freud, and the Account Owners' ties to Switzerland and London, England, which match unpublished information about the Account Owners contained in the Bank's records.

The CRT notes that the names Alexander Freud and Harry Freud each appear only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). Furthermore, the CRT notes that there are no other claims to these accounts.

Status of the Account Owner 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 resided in

Nazi-controlled Austria before fleeing to Switzerland and England. The CRT also notes that the Account Owners were forced to register their assets in the 1938 Census, and that the Nazi authorities subsequently lodged a criminal proceeding against them for non-reporting of certain assets and for attempting to get them taken out of the country.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information, demonstrating that the Account Owners were the Claimant's great-uncle, and the son of the Claimant's great-uncle.

The CRT notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records. Also, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all this information supports the plausibility that the Claimant is related to the Account Owners, as he has asserted in his Claim Forms.

The Issue of Who Received the Proceeds

The Bank's records indicate that the demand deposit account was suspended on 8 November 1963, and remains in the Bank's suspense account today, and that the account of unknown type was transferred to London on 10 September 1938.

With respect to the account of unknown type, given that it was transferred to London on 10 September 1938, at which time, according to information provided by the Claimant, the Account Owners were in London, the CRT concludes that the Account Owners received the proceeds of this account.

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 his paternal great-uncle and his father's cousin, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owners nor their heirs received the proceeds of one of the claimed accounts. The CRT notes that the Claimant is the only family member to have submitted a claim to the Account Owners' accounts, and that the Claimant is more entitled to the account than his son, [REDACTED 2], whom he represents in his claims.

Amount of the Award

In this case, the Account Owners held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 13 August 1940 was SF 144.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by

multiplying the balance as determined by Article 29 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 has 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, the Claimant, as Account Owner Alexander Freud's grandnephew, is entitled to the entire award amount, and his son, [REDACTED 2], is not entitled to a share of the award.

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 claims 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