

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Walter Freund

Claim Number: 705450/GO^{1, 2}

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Gertrud Falk, née Raphaelsohn.³ This Award is to the published accounts of Walter Freund (the “Account Owner”) at the [REDACTED] (the “Bank”).⁴

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 an Initial Questionnaire (“IQ”) with the Court in 1999, and in subsequent correspondence with the CRT, the Claimant identified the Account Owner as his grandfather, Dr. Walther (Walter) Heinrich Freund, who was born on 28 February 1874 in

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0668107, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 705450.

² The Claimant submitted two additional IQs, to the accounts of Martin Bischofswerder and David Bischofswerder, which are registered under the Claim Numbers 705449 and 787290, respectively. In a determination dated 6 August 2007, the CRT treated the claims to these accounts. In addition, the CRT treated the Claimant’s claim to the account of Sigmunt Samuel Feist and Toni Feist in a separate decision. See *In re Account of Sigmunt Samuel Feist and Toni Feist* (approved on 31 August 2007). Finally, in a separate decision, the CRT awarded the accounts of Franziska Falk to the Claimant. See *In re Account of Franziska Falk* (approved on 12 May 2006).

³ The CRT will treat the claim to this account in a separate determination.

⁴ 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”), the name Walter Freund appears three times. Upon careful review, the CRT has determined that the second and third Walter Freund are not the same person addressed in the current decision and, consequently, the Claimant did not identify these other account owners as his relatives.

Breslau, Prussia (today Wroclaw, Poland) and was married to [REDACTED], née [REDACTED], on 4 July 1922 in Breslau. The Claimant indicated that his grandfather was a pediatrician in Breslau and was the director of the Breslau pediatric hospital. The Claimant further indicated that his grandfather moved to Freiburg im Breisgau, Germany in 1937, and that he was deported from Freiburg im Breisgau with his wife and mother-in-law to the concentration camp in Gurs, France. The Claimant indicated that Dr. Walter Freund escaped the camp and entered Switzerland illegally in 1941, and that he emigrated to the United States in 1950. Finally, the Claimant indicated that in 1950, his grandfather returned to Freiburg im Breisgau, where he lived until his death in 1952.

The Claimant indicated that he was born on 11 August 1962 in Washington, District of Columbia, the United States.

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 Dr. Walter Freund, who resided in Germany and who was a German citizen. The Bank's records indicate that the Account Owner held a custody account, numbered 216370-35-000. The Bank's records further indicate that the Account Owner held one demand deposit account, numbered 216370-31-000, denominated in Swiss Francs ("SF"), and a second demand deposit account, numbered 216370-32-004, denominated in German Marks ("DM"). It is unclear from the Bank's records when the accounts at issue were opened or closed, although the dates 1 January 1940 and 3 February 1984 are handwritten on the customer card. The Bank's records further indicate that the Bank was instructed to hold correspondence regarding 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 the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's professional title, which matches unpublished information about the Account Owner contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Walter Freund, and indicates that his date of birth was 28 February 1874, that he was a German national, and that he was admitted into Switzerland as a refugee, which matches 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 these accounts was disconfirmed because that claimant provided a different professional title than the professional title 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 made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he was deported from Freiburg im Breisgau, Germany to a concentration camp in Gurs, France, and that he subsequently escaped the camp and fled to Switzerland in 1941. As noted above, a person named Walter Freund 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 specific biographical information, demonstrating that the Account Owner was the Claimant's grandfather. The CRT notes that the Claimant indicated that he has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his IQ.

The Issue of Who Received the Proceeds

The CRT notes that the customer card in this case indicates that one of the accounts was denominated in "DM" (*Deutschmark*), which was introduced after the War, and that "3 February 1984" was handwritten on the card. However, it is not clear from the Bank's record under what circumstances these notations were made or if these notations indicate that the account was active after the War. Given that the Account Owner was deported from Freiburg im Breisgau, Germany to a concentration camp in Gurs, France; that the Account Owner then entered Switzerland illegally after escaping from the concentration camp; that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the

accounts; that there was no indication of activity on these accounts after 1945; that the Account Owner and his heirs would not have been able to obtain information about his 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 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. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and two demand deposit accounts. 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 custody account was SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the three accounts at issue is SF 17,280.00. 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 216,000.00.

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
8 October 2008