

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ralph Engel
also acting on behalf of Gabriele Jackson, Vivian Stein, Jonathan Goldberg,
Joyce Shapiro and Jeffrey Greenberg

in re Accounts of Käthe Friedländer

Claim Number: 213599/RT¹

Award Amount: 1,407,412.50 Swiss Francs

This Certified Award is based upon the claim of Ralph Engel (the “Claimant”) to the unpublished accounts of Käthe Friedländer (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandmother, Käthe Friedländer, née Krämer, who was born on 17 July 1880 in Berlin, Germany and was married to Georg Friedländer on 25 December 1901 in Breslau, Germany. The Claimant stated that his grandmother had three children: Vera Goldberg née Friedländer; Ruth Engel, née Friedländer (the Claimant’s mother); and Wolfgang Friedlander, all of whom were born in Breslau and later died in the United States. The Claimant indicated that his grandmother, who was Jewish, was a housewife and that his grandfather was a businessman. According to the Claimant, his grandfather died on 9 December 1923, after which his grandmother resided at Eisenbahnstrasse 64 in Berlin from 1931 until March 1939, when she fled Germany for the United States.

The Claimant submitted copies of documents in support of his claim, including a letter issued by the bank of Moritz Silberberg (*Moritz Silberberg Bankgeschäft*) listing securities owned by Käthe Friedländer (who resided at Kurfürstendamm 173 in Berlin) as of 31 December 1930 and held at the Bank. These holdings include:

¹ In a separate decision, the CRT awarded another account of Käthe Friedländer to the Claimant. See *In re Account of Käthe Friedländer* (approved on 4 April 2004).

- 36 shares in *Compania Hispano - Americana de Electricidad, Serie A-C*, with a tax value of 45,720.00 Reichsmark (“RM”);
- 15 shares of *Serie D* in the same company, with a tax value of RM 3,810.00;
- 17 shares of *Serie E* in the same company, with a tax value of RM 4,080.00;
- 5% *Oblig. Eidgenössische Anleihe von 1925* bonds, with a nominal value of 20,000.00 Swiss Francs (“SF”);
- 5% *Oblig. Kanton Basel Stadt v. 1926* bonds, with a nominal value of SF 7.000.00; and
- 5% *Oblig. Schweiz. Bundesbahnen von 1925 v. Elektrifikationsanleihe* bonds, with a nominal value of SF 10,000.00.

The letter also indicated that Käthe Friedländer held a demand deposit account at the Bank with a balance of SF 46,690.00 as of 31 December 1930.

The Claimant further provided an undated attachment to the report filed on Käthe Friedländer’s behalf on securities held outside the Reich and/or securities denominated in foreign currency as required by the Law on Treason against the German Economy (*Anlage zur Anzeige auf Grund des Volksverratsgesetzes* [sic, properly *Gesetz gegen Verrat der deutschen Volkswirtschaft*]), indicating that Käthe Friedländer was a widow and resided at Eisenbahnstrasse 64, Berlin-Halensee and including in the listing securities she acquired on 5 April 1933, thus indicating, according to the Claimant, that the list was created sometime after that date.² This document includes the securities listed above.

Furthermore, the Claimant provided copies of additional documents, including: 1) an insurance certificate, issued on 3 May 1937 by *Allianz und Stuttgarter Verein Versicherungs Aktien Gesellschaft*, indicating that *Frau* (Mrs.) Käthe Friedländer resided at Eisenbahnstrasse 64 in Berlin-Halensee and that she insured her personal jewelry with a total value of RM 22,650.00; 2) an undated list pertaining to the Claimant's grandmother’s finances, presented to the tax authorities on 3 March 1939, indicating that she was assessed atonement tax (*Judenvermögensabgabe*) of RM 269,000.00 and flight tax (*Reichsfluchtsteuer*) of RM 344,125.00; 3) a letter from Käthe Friedländer, dated 18 March 1939, addressed to the Finance Office (*Finanzamt*) in Berlin-Wilmersdorf, indicating that she resided at Eisenbahnstrasse 64 in Berlin-Halensee and that following the official correction of the calculation of the flight tax from RM 344,125.00 to RM 282,002.00, and in view of the fact that the full amount had already been paid, she requested the repayment of RM 62,123.00; 4) a letter from the transport company (*Spediteure*) *Gläser & Herzberg* in Berlin, dated 17 March 1939, informing Käthe Friedländer of the delivery of her baggage to Southampton, England for the journey to New York on 1 April 1939 and also indicating that she resided at Eisenbahnstrasse 64 in Berlin-Halensee; 5) Ruth F. Engel’s last will, indicating that she was married to Werner H. Engel and that her children were Ralph M. Engel, Gabriele B. Jackson, and Vivian A. Antin; and 6) Werner H. Engel’s last will, indicating that his children were Gabriele B. Jackson, Ralph M. Engel, and Vivian A. Stein.

² The CRT notes that the Law on Treason against the German Economy, promulgated on 12 June 1933, required reporting of relevant securities and foreign exchange held as of 1 June 1933 and which exceeded a stated limit and which had not already been reported to the tax authorities or offered to the Reichsbank. Thus, Käthe Friedländer held the listed securities at least as of that date.

The Claimant indicated that he was born on 13 May 1944 in New York. The Claimant is representing his sisters: Gabriele Johanna Jackson, née Bernhard, who was born on 17 November 1936 in Berlin, and Vivian Alice Stein, née Engel, who was born on 5 January 1949 in New York. The Claimant is also representing his cousin Jonathan Goldberg (the son of his aunt Vera Goldberg), who was born on 17 September 1933 in Berlin, and his relatives, Joyce Shapiro, née Greenberg, and Jeffrey Greenberg (the grandchildren of Vera Goldberg and the children of Jonathan Goldberg's late sister, Irene Goldberg).

The Claimant previously submitted an Initial Questionnaire to the Court in 1999 asserting his entitlement to a Swiss bank account owned by Käthe Friedländer.

Information Available in the Bank's Records

The auditors who carried out the investigation 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 report an account belonging to Käthe Friedländer during their investigation of the Bank. The documents evidencing an account belonging to Käthe Friedländer were obtained from the Claimant and are described in the previous section.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandmother's name and address match the name and address of the Account Owner.³ The CRT notes that the documents evidencing the existence of the accounts were submitted by the Claimant. In support of his claim, the Claimant submitted documents, including an insurance certificate and a letter from a transport company, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided at the same address as indicated in the account related information provided by the Claimant. The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided different information about the maiden name and the date of birth than the maiden name and date of birth of the Account Owner as provided by the Claimant.

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 she lived in Germany until March 1939 when she fled Germany for the United States. The Claimant also

³ The CRT notes that the account-related documents were provided by the Claimant and therefore do not come from an independent source. However, the CRT notes that there were accounts held at a Swiss Bank by the Claimant's relative, which were reported during the ICEP Investigation and which were previously awarded to the Claimant. See *In re Accounts of Käthe Friedländer* (approved on 4 April 2004).

provided documents indicating that the Account Owner was assessed atonement tax of RM 269,000.00 and flight tax of RM 344,125.00.

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 grandmother. The CRT notes that the Claimant also submitted an insurance certificate, various tax related documents, and other records - including the documents evidencing the existence of the accounts in question - pertaining to the Account Owner. The CRT notes that these documents are documents which most likely only a family member would possess, and also indicate that the Account Owner was well known to the Claimant as a family member. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

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 Jewish residents and/or nationals of the Reich reported their assets to the Nazi authorities, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported her securities held at the Bank to the Nazi authorities; that she fled Germany for the United States in 1939; that there is no indication of the payment of the Account Owner's accounts to her nor any record of a date of closure of the account in the documents provided by the Claimant; that the Account Owner and her heirs would not have been able to obtain information about her 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 (d), (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 accounts' proceeds were not paid to the Account Owner or her 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 and the parties he represents. 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 maternal grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner her heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. The documents provided by the Claimant indicate that the value of the demand deposit account as of 31 December 1930 was SF 46,690.00. The CRT notes that the document listing the Account Owner's assets held abroad pursuant to the requirements of the Law on Treason against the German Economy did not include this account. However, the CRT determines that it is unable to rely on the completeness of such declarations as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all her assets, or understated their value, in the belief that this might help her safeguard some of them. Consequently the CRT will value the demand deposit account at its 31 December 1930 valuation.

With regard to the custody account, according to the Guidelines for the Valuation of Securities, circulated by Special Master Helen B. Junz, the CRT values bonds at the higher of market and nominal value when available, provided that the bonds were not in default. According to the Guidelines, the CRT values stocks at the market value when available. Thus, the securities held in the custody account and listed in the Account Owner's tax declaration shall be valued as follows:

- 36 shares of *Compania Hispano - Americana de Electricidad, Serie A-C* with a market value of SF 652.00 per share and a total market value of SF 23,472.00 as of 30 December 1933;⁴
- 15 shares of *Serie D* stock of the same company with a market value of SF 126.00 per share and a total market value of SF 1,890.00 as of 30 December 1933;
- 17 shares of *Serie E* stock of the same company with a market value of SF 123.00 per share and a total market value of SF 2,091.00;
- 5% *Oblig. Eidgenössische Anleihe von 1925* bonds with a nominal value of SF 20,000.00 and a market value of SF 21,060.00;
- *Oblig. Kanton Basel Stadt v. 1926* bonds with a nominal value of SF 7,000.00, the market value of which cannot be determined;
- 5% *Oblig. Schweiz. Bundesbahnen von 1925 v. Elektrifikationsanleihe* bonds with a total nominal value of SF 10,000.00 and a market value of SF 10,390.00.

Thus, the combined historical value of the securities in the Account Owner's custody account was SF 65,903.00, and the combined historical value for the two accounts at issue is SF 112,593.00. 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 1,407,412.50.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted

⁴ The market values of the securities are based on the quotes of the Zurich Stock Exchange published in the Kursblatt der Zürcher Effektenbörse.

a claim, in equal shares by representation. In this case, the Claimant is representing his sisters, Gabriele Jackson and Vivian Stein; together the Claimant and his siblings are the descendants of one of the Account Owner's children. The Claimant is also representing his relatives Jonathan Goldberg, who is the son of the Account Owner's daughter Vera Goldberg, and Joyce Shapiro and Jeffrey Greenberg, who are the children of Jonathan Goldberg's late sister Irene Goldberg; together, these parties are the descendants of another of the Account Owner's children. Accordingly, the award shall be divided as follows:

Claimant Ralph Engel: one-sixth (1/6)
Represented party Gabriele Jackson: one-sixth (1/6)
Represented party Vivian Stein: one-sixth (1/6)
Represented party Jonathan Goldberg: one-fourth (1/4)
Represented party Joyce Shapiro: one-eighth (1/8)
Represented party Jeffrey Greenberg: one-eighth (1/8)

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
23 June 2006