

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Hedwig Lea Prowisor¹
also acting on behalf of Ernestine Ruth Davidovic

in re Accounts of Desider Friedmann

Claim Number: 000200/WT

Award Amount: 25,875.00 Swiss Francs

This Certified Award is based upon the claim of Hedwig Lea Prowisor, née Friedmann (the “Claimant”) to the published accounts of Desider Friedmann (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).²

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

Procedural History

On 25 October 2002, the Court approved an award to the Claimant and represented party Ernestine Ruth Davidovic for one account of unknown type owned by the Account Owner at the Bank (the “October 2002 Award”). In the October 2002 Award, the CRT also reserved decision with regard to a safe deposit box owned by the Account Owner. After that date, the Bank made available to the CRT additional information about these accounts. These documents contain additional details regarding the two accounts addressed in the October 2002 Award and indicate that the Account Owner also owned a third account - a savings/passbook account - not addressed in the October 2002 Award. The new information regarding the account of unknown type

¹ In a separate decision, the Court approved an award to Claimant Hedwig Lea Prowisor (the “Claimant”) for one account belonging to Desider Friedmann. See *In re Accounts of Desider Friedmann* (approved on 25 October 2002) (the “October 2002 Award”).

² 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”), Desider Friedmann is listed as having two accounts, over which Ella Friedmann held power of attorney, Ella Friedmann of Vienna, Austria is listed as having one account, and Ella Friedmann of Berlin, Germany, is listed as having one account. Upon careful review, the CRT has determined that Desider Friedmann held three accounts over which Ella Friedmann of Vienna, Austria, held power of attorney, of which one was previously awarded in the October 2002 Award, and two of which are the subject of the current award. Additionally, the CRT has determined that Ella Friedmann of Berlin, Germany, is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as her relative.

contained in the October 2002 Award will be addressed in a separate decision. The subject of this Award is the previously-unawarded safe deposit box and the savings/passbook account that was identified in the additional information recently obtained from the Bank.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Desider Friedmann, who was born on 24 November 1880 in Boskovice, Austria-Hungary (now Czech Republic), and was married to Ella Friedmann, née Stiassni, on 6 January 1921 in Vienna, Austria. The Claimant indicated that her father was the son of Samuel and Ernestine Friedmann. The Claimant further indicated that her parents resided at Albertgasse 26, Vienna, until 1934, and then moved to Börsegasse 14, Vienna, where they resided until 1938. The Claimant explained that her father, who was Jewish, was an attorney and the president of the Jewish congregation in Vienna. The Claimant indicated that, according to her father's office administrator, her father deposited money in a Swiss bank in Basel. The Claimant indicated that, following the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"), her father was interned in Dachau and later in Buchenwald. The Claimant indicated that she was able to emigrate to Palestine (today Israel) in October 1938, and that her sister, Ernestine Ruth Davidovic, née Friedmann, was also able to emigrate in 1939, but that upon the outbreak of the Second World War, her parents were deported to Theresienstadt and then to Auschwitz, where they perished in 1944.

In support of her claim, the Claimant submitted copies of the following documents: (1) her own birth certificate, indicating that Hedwig Friedmann was born in Vienna on 4 October 1923 to Dr. Dezsö Friedmann and Ella Friedmann, née Stiassny; (2) her own marriage certificate, indicating that Hedwig Lea Friedmann, daughter of Desider and Ella Friedman, was married to Mosher (Walter) Prowisor on 19 March 1943; (3) her sister's birth certificate, indicating that Ernestine Ruth Friedmann was born in Vienna on 17 November 1921 to Dr. Dezsö Friedmann, an attorney, and Ella Friedmann, née Stiassny; and (4) her sister's marriage certificate, indicating that Ernestine Ruth Friedmann, daughter of Desider and Elli Friedmann, was married to Schlomoh Davidowitz on 10 August 1981.

The Claimant indicated that she was born on 4 October 1923 in Vienna. The Claimant is representing her sister, Ernestine Ruth Davidovic, née Friedmann, who was born on 17 November 1921 in Vienna.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Dr. Desider Friedmann and Ella Friedmann, née Stiassni.

Information Available in the Bank Records

The Bank's records consist of a contract, dated 9 September 1931, for the rental of a safe deposit box, a power of attorney form, a signature sample card, an extract from a ledger of accounts

which were frozen under the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the “1945 Freeze”), and a safe opening protocol. According to these records, the Account Owner was Dr. Desider Friedmann, an attorney who resided at Schottenring 26 in Vienna, Austria, and the Power of Attorney Holder was his wife, Ella Friedmann, who resided at Albertgasse 26 in Vienna. The Bank’s records indicate that the Account Owner owned a safe deposit box, numbered 808. The Bank’s records indicate that the safe deposit box account was frozen under the 1945 Freeze, and that the Bank forcibly opened the safe on 4 March 1946, as of which date the safe was empty. The Bank’s records indicate that the account was subsequently closed on 18 March 1946. There is no evidence in the Bank’s records that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about the Account Owner’s accounts (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of a second power of attorney form, a ledger showing fees charged to Dr. D. Friedmann between the years 1944 through 1946 for the rental of safe deposit box 808, and a list of account holders.

These documents indicate that in addition to safe deposit box 808, the Account Owner held a savings/passbook account, numbered 7584. The records do not show when the savings/passbook account was closed, nor do these records indicate the value of this account.

There is no evidence in the Bank’s records that the Account Owner, the Power of Attorney Holder, or their heirs closed these accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews residing 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 Dr. Desider Friedmann, numbered 44710, and his spouse, Ella Friedmann, née Stiassni, numbered 44746. According to these documents, Dr. Desider Friedmann, who was born on 24 November 1880, and Ella Friedmann, who was born on 25 December 1897, resided at Börsegasse 14, Vienna I. The documents indicate that Dr. Desider Friedmann was a lawyer whose office was located at Schottenring 26, Vienna I.

These records also include a letter to the Vienna Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*), dated June 1938, from Ella Friedmann. In this letter Ella Friedmann indicates that her husband had been arrested and held in custody since 18 March 1938, and she requested an extension of time to submit the census forms for her family, including forms for the couple’s two minor daughters, Ernestine and Hedwig. Dr. Desider Friedmann’s census form was signed in his name by Ella Friedmann on 30 August 1938. Dr. Friedmann signed revisions to this form, dated 29

December 1938 and 27 June 1939. In a letter from the Flight Tax Authority (*Reichsfluchtsteuerstelle*), dated 12 February 1942, Dr. Desider Friedmann and Ella Friedmann, née Stiasni, who resided at Zelinkagasse 1, Vienna, were informed that they were required to pay a “safety assessment” (*Festsetzung der Sicherheit*) of 1,700.00 Reichsmark.

These records make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her parents’ names match the published names of the Account Owner and the Power of Attorney Holder. The Claimant identified her parents’ street address and her father’s profession, which match unpublished information about the Account Owner contained in the bank records. The Claimant also indicated that her father deposited money in a Swiss bank in Basel, where this account was held, which further matches unpublished information contained in the bank records.

In support of her claim, the Claimant submitted documents, including her own birth certificate and her sister’s birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank’s records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a list of Theresienstadt inmates, including Desider Friedmann, which indicates that his date of birth was 24 November 1880 and place of birth was Boskovice, Czechoslovakia, 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 Claimant filed an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Desider and Ella Friedmann, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner and the Power of Attorney Holder were Victims of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and that he perished with his wife, who was the Power of Attorney Holder, in Auschwitz in 1944. As noted above, a person named Desider Friedmann was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was her father. These documents include her own and her sister's birth certificates and marriage certificates, indicating that Dr. Dezsö Friedmann and Ella Friedmann, née Stiassny, were the parents of Hedwig Prowisor and Ernestine Ruth Davidowitz. There is no information to indicate that the Account Owner has surviving heirs other than the Claimant and her sister, who the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder resided in Austria after the *Anschluss* and perished in Auschwitz; that there is no record of the payment of the Account Owner's accounts to him; 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder 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 and the party she 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 their father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

For the purpose of this award, the Account Owner held one savings/passbook account and one safe deposit box. Pursuant to Article 29 of the Rules, if the amount in 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 savings/passbook account was 830.00 Swiss Francs (“SF”), and the average value of a safe deposit box was SF 1,240.00. Thus, the combined 1945 average value for the two accounts at issue is SF 2,070.00. 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 25,875.00.

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 a claim, in equal shares by representation. In this case, the Claimant is representing her sister, Ernestine Ruth Davidovitz. Accordingly, the Claimant and her sister each are entitled to one-half of the total award amount.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
25 November 2008