

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of J. Friedmann

Claim Numbers: 222968/HB; 753844/HB¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), to the account of Jaques Friedmann, and the claim of [REDACTED 2] (formerly [REDACTED 2]) (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Jetti Friedmann. This Award is to the published account of J. Friedmann (the “Account Owner”) at 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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her uncle (her father’s brother-in-law), Jaques Friedmann, who was married to [REDACTED], née [REDACTED]([REDACTED]), who was born in 1878 in Hungary. Claimant [REDACTED 1] indicated that her uncle, who was Jewish, was an attorney with the professional title of *Dr. Jur.* (doctor of law), and resided on Cottagegasse in Vienna, Austria. According to Claimant

¹ Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a CRT Claim Form. However, in 1998 he submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-A-71-118-205-128 to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). Claimant [REDACTED 2]’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 753844.

[REDACTED 1], her father [REDACTED] deposited 400.00 Australian Dollars in a Swiss bank during the Second World War in order to get a permit from the Australian government for his sister, [REDACTED], and her husband Jaques Friedmann, so that they could flee Austria to Australia. Claimant [REDACTED 1] indicated that because [REDACTED] suffered a stroke, her uncle was unable to flee Austria and was subsequently deported to Theresienstadt, where he perished.

The CRT notes that Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Jaques Friedmann.

Claimant [REDACTED 1] indicated that she was born on 17 January 1924 in Budapest, Hungary.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an ATAG Ernst & Young Claim Form in 1998 identifying the Account Owner as his mother, Jetty (Jetty) Lewinter, née Friedmann, who was born on 6 September 1900, and was married to [REDACTED]. Claimant [REDACTED 2] indicated that between 1934 and 1937 his parents opened a bank account in Switzerland, probably at the *Zürcher Bankverein*. According to Claimant [REDACTED 2], his mother, who was Jewish, was a housewife and resided at Universumstrasse 40/38 in Vienna XX until the end of 1937, and that she moved to Taborstrasse 9 in Vienna II in February 1938. Claimant [REDACTED 2] stated that his father was killed during the *Kristallnacht* (Night of Broken Glass) pogrom on 10 November 1938. Claimant [REDACTED 2] further stated that in November or December of 1939 his mother fled Austria to Palestine (today Israel) on the ship *Patria*. Claimant [REDACTED 2] explained that his mother died when the ship exploded and sank on 25 November 1940 in the harbor of Haifa, Israel.

Claimant [REDACTED 2] submitted copies of documents in support of his claim, including: (1) a certificate issued by the Israeli Department of Immigration dated 12 February 1949, indicating that [REDACTED 2]’s former name was [REDACTED 2]; (2) an extract of registry issued by the Israeli Ministry of Interior dated 9 December 1990, indicating that [REDACTED 2] was born on 12 October 1925 in Austria, that he was Jewish, that his mother’s name was Jetty, and that he changed his first name from [REDACTED 2] to [REDACTED 2] on 26 June 1959; (3) an immigration certificate issued on 17 April 1939 by the Palestinian Government, indicating that [REDACTED 2] immigrated to Israel; and (4) a letter issued on 7 October 1997 by the Jewish Community in Vienna, indicating that [REDACTED 2] was born on 12 October 1925 at Universumstrasse 20 in Vienna, and that his parents were [REDACTED] and Jütte Lewinter.

Claimant [REDACTED 2] indicated that he was born on 12 October 1925 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was J. Friedmann who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account. The Bank's record further indicates that the account was closed on 10 September 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s uncle's first name initial, surname and country of residence, and Claimant [REDACTED 2]'s mother's first name initial, surname and country of residence match the published first name initial, last name and country of residence of the Account Owner. The Claimants each identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

Claimant [REDACTED 2] submitted documents in support of his claim, including a certificate issued by the Israeli Department of Immigration, indicating that [REDACTED 2]'s former name was [REDACTED 2], an extract of registry issued by the Israeli Ministry of Interior, indicating that his mother's name is Jetty, his own immigration certificate, and a letter issued by the Jewish Community in Vienna, indicating that [REDACTED 2] was born in Vienna and that his mother was Jütte, providing independent verification that the person who is claimed to be the Account Owner had the same first name initial, last name, and resided in the same town recorded in the Bank's record as the first name initial, last name, and city of residence of the Account Owner.²

The CRT notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Jaques Friedmann, and Claimant [REDACTED 2] filed an ATAG Ernst & Young claim form in 1998 asserting her entitlement to a Swiss bank account owned by and Jetty Lewinter, née Friedmann, respectively, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of Victims of Nazi Persecution

² The CRT notes that Jetty and Jetti are German variations of Jütte.

("ICEP" or the "ICEP List"). This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that the name J. Friedmann appears 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 CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence, and/or an inconsistent date with the closure date of the account than the city or country of residence and closure date of the account.

The CRT further notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified published and unpublished information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account was disconfirmed because they provided different countries, inconsistent dates and different surname spelling, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and tried to flee to Australia, but due to his wife's illness he was unable to flee Nazi-controlled Austria, and was deported to Theresienstadt, where he perished.

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that the Account Owner's spouse was killed during *Kristallnacht*, that in November or December 1939 the Account Owner fled Nazi-controlled Austria, and that she perished before reaching Palestine.

The Claimant's Relationship to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information which matches unpublished information contained in the Bank's record, demonstrating that the Account Owner was Claimant

[REDACTED 1]'s uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's record; that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List. 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 Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has also plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s mother. These documents include a certificate issued by the Israeli Department of Immigration, indicating that [REDACTED 2]'s former name was [REDACTED 2], an extract of registry issued by the Israeli Ministry of Interior, indicating that his mother's name is Jetty, his own immigration certificate, and a letter issued by the Jewish Community in Vienna, indicating that [REDACTED 2] was born in Vienna and that his mother was Jütte. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that Claimant [REDACTED 2] identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes the Claimant filed an ATAG Ernst & Young claim form in 1998, identifying the relationship between the Account Owner and Claimant [REDACTED 2], prior to the publication in February 2001 of the ICEP List. 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 Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 10 September 1938. Given that according to Claimant [REDACTED 1], the Account Owner was perished in Theresienstadt, and that according to Claimant [REDACTED 1] the Account Owner died on 25 November 1940; that there is no record of the payment of the Account Owner's account to them; that the Account Owner's heirs would not have been able to obtain information about their account 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 or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owner or their heirs received the proceeds of their account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her uncle and that relationship justifies an award, and Claimant [REDACTED 2] has also plausibly demonstrated that the Account Owner was his mother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his or her 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 (“SF”). 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 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each claimant has established a plausible relationship to a person with the same first name initial and the same last name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
30 May 2007