

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹
represented by [REDACTED] and [REDACTED]

and to the Estate of Claimant [REDACTED 2]

in re Accounts of Josef Friedmann

Claim Numbers: 205365/JW; 212892/JW

Award Amount: 177,308.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant REDACTED 1”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Josef Friedmann (the “Account Owner”) 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 Claimants

The Claimants, who are siblings, submitted substantially similar Claim Forms identifying the Account Owner as their father, Joseph (Josef) Friedmann (Friedman), who was born in the 1870s in Poland, and was married to [REDACTED], née [REDACTED], in 1907 in Dombrowa, Poland. The Claimants indicated that their father, who was Jewish, was a businessman and owned several properties. According to Claimant [REDACTED 2], her father resided and worked in Dombrowa until 1913, when he moved to the United States, where he became a citizen. The Claimants indicated that their father moved in 1921 to Berlin, Germany, and that he also traveled to Switzerland for business. The Claimants indicated that their father died in 1932 or 1933. Claimant [REDACTED 2] indicated that she resided in Hanover, Germany, after her father’s death, but was restricted in her activities, including working and attending synagogue, because she was Jewish. Claimant [REDACTED 2] further indicated that she fled Germany in

¹ In a facsimile transmission received on 1 June 2006, [REDACTED] of Mahwah, New Jersey, the United States, informed the CRT that [REDACTED 1] (“Claimant [REDACTED 1]”) passed away on 14 July 2001. In the facsimile, [REDACTED] included a copy of Claimant [REDACTED 1]’s will, naming his daughters, [REDACTED] and [REDACTED], as executors of his estate.

1938 for Belgium and that she subsequently emigrated to the United States. In support of her claim, Claimant [REDACTED 1]'s daughter submitted copies of: (1) Claimant [REDACTED 1]'s death certificate, indicating that [REDACTED 1]'s parents were Joseph and [REDACTED] and that he died on 14 July 2001; and (2) Claimant [REDACTED 1]'s will, indicating that his children, [REDACTED] and [REDACTED], are the sole heirs of his estate.

Claimant [REDACTED 1] indicated that he was born on 21 July 1911 in Dombrowa. Claimant [REDACTED 2] indicated that she was born on 20 February 1913 in Dombrowa. Claimant [REDACTED 2] previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Joseph Friedman.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Josef Friedmann during their investigation of the Bank. The documents evidencing an account belonging to Josef Friedmann were obtained from the Swiss Federal Archive in Bern, Switzerland, and are described below.

Information Available in the Swiss Federal Archives

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Josef Friedmann. The records referenced in this award consist of documents relating to the survey of assets held in Switzerland by foreigners or stateless persons who were or who were believed to have been victims of racial, religious or political persecution, conducted by Swiss banks pursuant to a Federal decree in 1962 (the "1962 Survey"), including a report of this account to the Swiss Department of Justice, correspondence regarding the account between the Bank and the Swiss Department of Justice, account statements, and a detailed statement of assets. According to these records, the Account Owner was *Herr* (Mr.) Josef Friedmann, who last resided at the *Pension Simon, Villa Hohenzollern*, on Querstrasse 8 in Dresden-Weisser Hirsch, Saxony, Germany. The records further indicate that the Account Owner formerly resided at Korn, Kl. Hamburgstrasse 26 in Berlin, Germany, and that the Account Owner held United States citizenship.

The records indicate that the Account Owner held one savings/passbook account and one custody account. These records indicate that the balance of the savings/passbook account was 899.70 Swiss Francs ("SF") as of 1 September 1963. The records indicate that the custody account, numbered 53001, was opened on 18 December 1924, and contained the following securities on 1 September 1963:

1. *3½% Pfandbriefzentrale der schweiz. Kantonalbanken (Serie 82) 1962* bonds, with a nominal value of SF 3,000.00 and a market value of SF 2,910.00;

2. 3³/₄% [REDACTED] (*Serie XV*) 1963 bonds, with a nominal value of SF 2,000.00 and a market value of SF 1,980.00;
3. 3¹/₂% [REDACTED] *fällig 16.2.1966 Cp. 10.7.* bonds, with a nominal value of SF 1,000.00 and a market value of SF 1,000.00;
4. 3¹/₂% [REDACTED] *fällig 22.6.1966 Cp. 10.8.* bonds, with a nominal value of SF 2,000.00 and a market value of SF 2,000.00.

According to these records, the total nominal value of the custody account was SF 8,000.00 and that the total market value of the custody account was SF 7,890.00 as of 1 September 1963. These records finally indicate that in 1973, the accounts had a combined balance of SF 10,812.80, which was transferred, minus fees in the amount of SF 74.00, sometime before 9 July 1973, to the Fund for Heirless Assets (*Erblose Vermögen*), which was created by the Swiss authorities pursuant to their 1962 Survey decree.

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

The Claimants' father's name, city, and country of residence match the unpublished name and city and country of residence of the Account Owner. The Claimants identified that the Account Owner held United States citizenship, which matches additional unpublished information about the Account Owner contained in the Swiss Federal Archive records.

In support of his claim, Claimant [REDACTED 1]'s daughter submitted a copy of Claimant [REDACTED 1]'s death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Swiss Federal Archive records as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, and that both Claimants filed their claims with the CRT in 2001, asserting their entitlement to a Swiss bank account owned by Joseph Friedman, prior to the publication of the List of Account Owners Published in 2005 (the "2005 List"). This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the 2005 List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimants.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Target of Nazi Persecution

The CRT notes that while the Account Owner was not a Victim of Nazi Persecution, the Account Owner's daughter and heir was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that she is Jewish, that she resided in Nazi Germany, where she was constrained from working and attending synagogue because she was Jewish, and that she fled Germany in 1938 for Belgium and subsequently emigrated to the United States.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was their father. The CRT notes that Claimant [REDACTED 1]'s daughter submitted a copy of Claimant [REDACTED 1]'s death certificate, indicating that his father was Joseph Friedman. The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's records, and that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and the Claimants, 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"). 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The records from the Swiss Federal Archive indicate that the balance of the accounts was transferred to the Fund for Heirless Assets no later than 9 July 1973.

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, the Claimants have plausibly demonstrated that the Account Owner was their father, and that relationship justifies an Award. Third, the CRT has determined 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 savings/passbook account and one custody account. With respect to the savings/passbook account, the records from the Swiss Federal Archives indicate that the value of the savings/passbook account as of 1 September 1963 was SF 899.70. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the savings/passbook account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 1,184.70. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 14,808.75.

With respect to the custody account, the records from the Swiss Federal Archive indicate that the market value of the custody account as of 1 September 1963 was SF 7,890.00. The CRT notes that the securities in the portfolio postdate 1945; in fact, they all were issued in the 1960s, indicating that the Bank managed the portfolio. According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. Market value shall be awarded if the market value was above the nominal value on the date the account owner is deemed to have lost control over the account. Accordingly, the securities held in the custody account and listed in the records from the Swiss Federal Archive, which were all in good standing, shall be valued as follows:

1. *3½% Pfandbriefzentral der schweiz. Kantonalbanken (Serie 82) 1962* bonds, with a nominal value of SF 3,000.00 and a market value of SF 2,910.00. Because the nominal value is above the market value, the value is determined to be SF 3,000.00;
2. *3¾% [REDACTED] (Serie XV) 1963* bonds, with a nominal value of SF 2,000.00 and a market value of SF 1,980.00. Because the nominal value is above the market value, the value is determined to be SF 2,000.00;
3. *3½% [REDACTED] fällig 16.2.1966 Cp. 10.7.* bonds, with a nominal value and a market value of SF 1,000.00;
4. *3½% [REDACTED] fällig 22.6.1966 Cp. 10.8.* bonds, with a nominal value and a market value of SF 2,000.00.

Thus, the combined nominal value of the bonds held in the custody account as of 1 September 1963 was SF 8,000.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 950.00, which reflects standardized bank fees charged to the custody account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 8,950.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. 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 162,500.00.

Consequently, the total award amount for both accounts in this case is SF 177,308.75.

Division of the Award

According to Article 23(2)(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 Claimants are the children of the Account Owner. Accordingly, the Estate of Claimant [REDACTED 2] and the Estate of Claimant [REDACTED 1] are each entitled to one-half of the total 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
27 February 2007