

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Paul Friedmann and Elsa Friedmann¹

Claim Number: 601288/IG²

Award Amount: 539,816.89 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Paul Friedmann ("Account Owner Paul Friedmann") and Elsa Friedmann ("Account Owner Elsa Friedmann") (together the “Account Owners”) at the Zurich branches of the [REDACTED I] (“Bank I”) and the [REDACTED II] (“Bank II”) (together the “Banks”).

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 a claim to the Holocaust Claims Processing Office (“HCPO”) identifying Account Owner Paul Friedmann as his father, Paul Friedmann, who was born on 12 January 1880 in Vienna, Austria, and identifying Account Owner Elsa Friedmann as his mother, Elsa Friedmann née Oppenheim, who was born on 3 December 1895 in Vienna. The Claimant stated that his parents, who were Jewish, were married in 1914 and that they resided at Rudolf von Altplatz 4 in Vienna III. The Claimant further stated that his parents had two children: the Claimant, who was born on 12 December 1922 in Vienna, and [REDACTED] née [REDACTED], who was born on 2 October 1917 in Vienna.

The Claimant stated that his father was a branch manager of the *Creditanstalt-Wiener Bankverein* in Vienna for approximately 25 years. The Claimant further stated that his father retired in the 1930s due to health problems and that he established two Swiss bank accounts upon his retirement. The Claimant also stated that he distinctly remembers his father giving him

¹ [REDACTED] originally filed a claim to the accounts of his parents, Paul Friedmann and Elsa Friedmann née Oppenheim. [REDACTED] passed away on 7 July 2003. He is survived by his daughters [REDACTED] and [REDACTED].

² The Claimant submitted a claim, numbered B-000354, on 24 November 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601288/IG.

envelopes from Bank II for use in his stamp collection.

The Claimant stated that his father died of natural causes on 11 December 1937, only three months before the Nazi annexation of Austria in March 1938 (the *Anschluss*). According to the Claimant, three days after the *Anschluss*, two Gestapo officials arrived at their house and demanded to see his sister, [REDACTED]. The Claimant stated that Gestapo officials detained his sister without charge or any explanation, and that soon thereafter they called his mother from Gestapo headquarters, threatening to deport her daughter to a concentration camp if she did not reveal to them the numbers of her Swiss bank accounts. The Claimant explained that his mother immediately consulted with the family lawyer, who advised her to provide the Nazis with the account numbers to ensure her daughter's safety, which she did in exchange for her daughter's eventual release.

The Claimant indicated that two weeks after his sister's release, the *Österreichische Creditanstalt-Länderbank* contacted his mother and informed her that the *Deutsche Golddiskontobank* confiscated her accounts and sold all of the securities in the accounts. The Claimant explained that on 11 December 1938 in order to secure his safety, his mother sent him to the United Kingdom, and that his sister joined him there in March 1939. The Claimant further stated that he and his sister remained in the United Kingdom until April 1943, when they emigrated to New York, New York, the United States, where they joined their mother, who was also forced to flee Austria via Portugal to the United States. The Claimant stated that his mother died in May 1969 in New York, and that his sister died on 12 June 1992 in New York.

The Claimant submitted two statements from *Creditanstalt Bankverein* addressed to him and to his sister, dated 23 October 1969, indicating receipt of securities, including "*Pester*" *Hungarian Commerce Bank* bonds 7% at 6,000.00 Swiss Francs par value; a denial rendered on 11 December 1969 in Vienna by the Fund for Compensation of Property Losses of Victims of Political Persecution (*FONDS zur Abgeltung von Vermögensverlusten politisch Verfolgter*) with respect to his mother's restitution claim; and two detailed family trees.

Information Available in the Banks' Records

Bank I

Bank I's records consist of an account-opening contract, an unsigned document from Mr. Friedmann authorizing his wife to open an account (*Zustimmungserklärung*), a list of closed accounts belonging to customers domiciled in Austria, internal bank correspondence, and printouts from Bank I's database. According to these records, Account Owner Elsa Friedmann, who was a widow, resided at Rudolf von Altplatz 4, Vienna III, Austria. Bank I's records indicate that Account Owner Elsa Friedmann held three custody accounts, which were opened on 28 January 1938: one custody account held at the Zurich branch of Bank I; one custody account held at the New York Agency of Bank I; and one custody account held at the London, the United Kingdom, branch of Bank I.

According to Bank I's records, the custody account that was held at the Zurich branch was

transferred to the Vienna branch of the *Länderbank* on 14 September 1938. The amount in the account on the date of its transfer was 8,900.00 Swiss Francs.

Bank I's records do not show if or when the custody accounts held at the New York Agency and the London branch were closed, or to whom they were paid, nor do these records indicate the value of 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 Bank I'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 Bank I's records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

Bank II

Bank II's records consist of two customer cards, one pertaining to accounts jointly held by the Account Owners, and the other pertaining to Account Owner Paul Friedmann's accounts. According to these records, the Account Owners were Paul Friedmann and Elsa Friedmann who resided at Rudolph von Altplatz 4, Vienna III, Austria. In addition, Bank II's records show that Account Owner Paul Friedmann's name was crossed off the customer card pertaining to the jointly held accounts, and the date of his death (11 December 1937) was added to the card pertaining to his accounts.

Accounts Jointly Held by Paul Friedmann and Elsa Friedmann at Bank II

Bank II's records indicate that the Account Owners jointly held five demand deposit accounts as well as one custody account, numbered L36239. Bank II's records do not indicate when these accounts were opened, but they do indicate that the demand deposit accounts were closed on 31 August 1931, 20 October 1934, 30 September 1935, and 31 January 1938 (two accounts); and that the custody account was closed on 3 February 1938. The amounts in the accounts on the dates of their closure are unknown. The auditors who carried out the ICEP Investigation indicated that the amount in the custody account was 3,702.08 Swiss Francs on the date of its closure. There is no evidence in Bank II's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

Paul Friedmann's Accounts at Bank II

Bank II's records indicate that Account Owner Paul Friedmann held one demand deposit account and one custody account, numbered L43762. Bank II's records do not indicate when Account Owner Paul Friedmann's accounts were opened, but indicate that the demand deposit account was closed on 10 November 1938, and that the custody account was closed on 12 November 1938. Bank II's records do not indicate the amount in the accounts on the dates of their closure. The auditors who carried out the ICEP Investigation determined that the amount in the custody account was 5,936.62 Swiss Francs on the date of its closure. There is no evidence in Bank II's records that Account Owners Paul Friedmann or his heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Elsa Friedmann, née Oppenheim, [REDACTED], and [REDACTED]. The file concerning the assets of Else Friedmann, numbered 43474, indicates that she was born on 3 December 1895, that she was a widowed housewife, and that she resided at Rudolf von Altplatz 4 in Vienna III, Austria. The records indicate that Elsa Friedmann owned real estate worth 52,333.00 Reichsmarks, bonds and shares worth 62,860.00 Reichsmarks, savings accounts worth 9,470.00 Reichsmarks, a pension fund at the *Creditanstalt-Wiener Bankverein* with a capitalized value of 47,520.00 Reichsmarks (a widow's pension from her late husband Paul Friedmann who died on 11 December 1937; she received monthly payments of 264.00 Reichsmarks), as well as other assets worth 1,750.00 Reichsmarks. The records further indicate that Elsa Friedmann owed 26,134.00 Reichsmarks in debts. The records state further that on 14 May 1940 she was assessed a so-called "flight tax" (*Reichsfluchtsteuer*) of 34,096.00 Reichsmarks; however, on 3 May 1941, this "flight tax" was reduced to 22,552.00 Reichsmarks.

The records further indicate that some of the securities registered in the census were held at Bank I and Bank II.

In particular, the records include a list of foreign securities held at Bank I, the total market value of which was 6,472.16 Reichsmarks as of 12 July 1938:

- 1) 4,000.00 French Francs, nominal value, of *Chemin der Fer du Midi* worth 320.00 Swiss Francs (183.00 Reichsmarks);
- 2) 1,000.00 Swiss Francs, nominal value, *7% Pfandbriefe der Pester ung. Com. Bank* worth 230.00 Swiss Francs (131.54 Reichsmarks);
- 3) 4,000.00 French Francs, nominal value, *4% Obl. Der Staatsbahnen v. Elsass-Lothringen 1931* worth 264.00 Swiss Francs (150.98 Reichsmarks);
- 4) 1,000.00 United States Dollars, nominal value, *7% 20 Year Ext. Chile Loan 1942* worth 171.26 United States Dollars (425.62 Reichsmarks);
- 5) 200.00 Pounds Sterling, nominal value, *4% Orleans Railway Comp.* worth 165.00 Pounds Sterling (2,047.65 Reichsmarks);
- 6) 1,000.00 United States Dollars, nominal value, *7% Rima Steel Corp 1st Mtge - sinking Fund Gold Bonds 1955* worth 420.00 United States Dollars (1,045.38 Reichsmarks);
- 7) 20 *St. Common Shares General Electric* worth 34.50 United States Dollars (1,717.41 Reichsmarks);
- 8) 20 *St. Canadian Pacific Railway Comp.* worth 127.40 United States Dollars (316.10 Reichsmarks);
- 9) 5 *St. Radio Corp. of America* worth 30.60 United States Dollars (76.16 Reichsmarks);
- 10) 20 *St. Standard Brands Inc.* worth 7.62 United States Dollars (378.32 Reichsmarks);
- 11) 1,000.00 United States Dollars, nominal value, *6½% Newag Obligationen* (valueless);³

³ With regard to these securities, the record includes a handwritten notice: *Länderbank*, indicating that the Nazi authorities determined that these bonds were in fact not held at Bank I, but at *Länderbank* in Vienna. However, the CRT determines that these bonds were originally held at Bank I and were transferred to *Länderbank* on an unknown

- 12) 400.00 Pounds Sterling, nominal value, 7% *Intern. Bundesanleihe 1930 engl. Tranche.* (valueless).

The records also include a list of foreign securities belonging to Paul Friedmann's Estate held at Bank II totaling 3,915.50 Reichsmarks, as of 12 July 1938:

- 1) 1,000.00 French Francs, nominal value, 4% *Chemin der Fer du Midi 1930* worth 80.00 Swiss Francs (45.52 Reichsmarks);
- 2) 5,000.00 Swiss Francs, nominal value, 7% *Pfandbriefe der Pester ung. Com. Bank 1930* worth 1,150.00 Swiss Francs (657.68 Reichsmarks);³
- 3) 20 *Stück Common Shares Anaconda Copper Mining Co.* worth 570.00 United States Dollars (1,418.73 Reichsmarks);
- 4) 20 *Stück Common Shares General Electric*;
- 5) 5 *Stück Common Shares Radio Corp. of America*;
- 6) 1,500.00 United States Dollars, nominal value, 6% *Wiener Dollaranleihe 1927.*

The records also indicate that one of the demand deposit accounts (*Guthaben*) registered in the census was held at Bank II, with a balance of 172.31 Swiss Francs (98.55 Reichsmarks).

These records contain additional documents, including a letter from [REDACTED], Elsa Friedmann's lawyer, dated 12 August 1938, in which he mentioned that the foreign securities reported in the census form had already been registered with the *Reichshauptbankstelle Wien* on 2 April 1938, under the number 3010 (Nr. 22730-22738). [REDACTED] further stated in his letter that Elsa Friedmann was still not able to sell those securities, as the *Devisenstelle Wien* had not yet decided upon a request, dated 19 July 1938, for authorization of a partial sale. Furthermore, this letter indicates that according to the applicable inheritance laws, one-half of the assets of the late Paul Friedmann belonged to his wife and one-half of these assets belonged to his children in equal shares. The records also contain a letter dated 12 December 1938 informing the authorities that [REDACTED] no longer represents Elsa Friedmann and her children. Finally, page two of the letter states that the Swiss custody accounts have been closed.

The file concerning the assets of [REDACTED], numbered 43435, indicates that he was born on 12 December 1922, and that he resided at Rudolf von Altplatz 4 in Vienna III, Austria. According to these records, as of 10 July 1939, [REDACTED] owned assets totaling 18,378.00 Reichsmarks. The records state further that he was assessed a "Jewish Assets Tax" (*Judenvermögensabgabe*) of 2,600.00 Reichsmarks and a so-called "flight tax" (*Reichsfluchtsteuer*) of 3,945.00 Reichsmarks.

The file concerning the assets of [REDACTED], numbered 43434, indicates that she was born on 2 October 1937 [sic], that she resided at Rudolf von Altplatz 4 in Vienna III, Austria, and that she was a milliner. According to these records, as of 10 July 1939, [REDACTED] owned assets totaling 18,378.00 Reichsmarks. The records state further that she was assessed a "Jewish Assets Tax" (*Judenvermögensabgabe*) of 2,600.00 Reichsmarks and a so-called "flight tax" (*Reichsfluchtsteuer*) of 3,945.00 Reichsmarks. The records further indicate that on 3 December 1938 her assets were re-assessed as having a value of 18,000.00 Reichsmarks, and she was

date, based on the fact that they are listed under the list of securities held at Bank I.

assessed a flight tax of 4,500.00 Reichsmarks.

The files concerning the assets of [REDACTED] and of [REDACTED] contain no different or additional information regarding assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His parents' names match the published names of the Account Owners. In addition, the Claimant identified his parents' exact street address in Vienna and his father's date of death, which match unpublished information about the Account Owners contained in the records of Bank I and Bank II. Finally, the Claimant submitted a sample of his mother's signature, which matches the signature sample contained in the records of Bank I and Bank II. The death certificate of Walter Frederick Friedman, submitted by the Claimant's heirs after he passed away on 7 July 2003, indicates that his parents were Paul Friedman and Elsa Friedman née Oppenheim. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence than the country of residence of the Account Owners in this case.

Status of Account Owner Elsa Friedmann as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Elsa Friedmann was a Victim of Nazi Persecution. The Claimant stated that Account Owner Elsa Friedmann was Jewish, that she was coerced to submit a census form registering her own and her children's property under threat of her daughter's deportation to a concentration camp, that she and her children were assessed "Jewish Asset Taxes" and "flight taxes," and that she and her children were forced to flee Austria to the United States. The CRT notes that Account Owner Paul Friedmann died before the *Anschluss* and that Account Owner Elsa Friedmann and her children inherited his assets.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners. The death certificate of Walter Frederick Friedman, submitted by the Claimant's heirs after he passed away on 7 July 2003, indicates that his parents were Paul Friedman and Elsa Friedman née Oppenheim. There is no information to indicate that the Account Owners have other surviving heirs.

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 after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or transferred to Nazi controlled

banks.

Bank I

In this case, Account Owner Elsa Friedmann held three custody accounts at Bank I. The CRT determines that the custody account that was held at the Zurich branch of Bank I and the custody account belonging to Elsa Friedmann referred to in the Austrian State Archives records are the same account.

With regard to the custody account held at the Zurich branch of Bank I, Bank I's records indicate that this account was transferred to the Nazi-controlled *Länderbank* in Vienna on 14 September 1938.

With regard to the custody accounts held at the New York Agency and London branch of Bank I, given that immediately following the *Anschluss* the Nazis began a major effort to confiscate the assets of the Jewish residents of Austria, and that the CRT has found evidence of numerous such confiscations of Swiss bank accounts which occurred at this time; that the Nazi's abducted the Account Owners' daughter with the evident purpose of extorting information relating to Account Owner Else Friedmann's Swiss bank accounts and to hold her hostage until her mother revealed this information; that Account Owner Else Friedmann was Jewish and that she and her children were forced to flee Austria to avoid Nazi persecution; that there is no record of the payment of the accounts to Account Owner Elsa Friedmann; that Account Owner Elsa Friedmann and her heirs would not have been able to obtain information about her accounts after the Second World War from Bank I due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (f), (h), and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Elsa Friedmann, 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.

Bank II

In this case, Account Owner Paul Friedmann held one custody account and one demand deposit account at Bank II. The CRT determines that these accounts and the custody account and the demand deposit account belonging to the Estate of Paul Friedmann referred to in the Austrian State Archives records are the same accounts.

With regard to the demand deposit account and custody account numbered L43762, which were held by Account Owner Paul Friedmann at Bank II and were closed on 10 November 1938 and 12 November 1938, respectively, given that the Austrian State Archives indicates that these accounts were reported in the 1938 census; that immediately following the *Anschluss*, the Nazis began a major effort to confiscate the assets of the Jewish residents of Austria, and that the CRT has found evidence of numerous such confiscations of Swiss bank accounts which occurred at

this time; that the Nazi's abducted the Account Owners' daughter with the evident purpose of extorting information relating to Account Owners' Swiss bank accounts and to hold her hostage until her mother revealed this information; that Account Owner Else Friedmann was Jewish and that she and her children were forced to flee Austria to avoid Nazi persecution; that there is no record of payment of the Account Owners' accounts to them or their heirs; that Account Owner Else Friedman and her heirs would not have been able to obtain information about his account after the Second World War from Bank II 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; given the application of Presumptions (a), (d), (f), (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 Owners, or their heirs.

With regard to the five demand deposit accounts closed on 31 August 1931, 20 October 1934, 30 September 1935, and 31 January 1938 (two accounts) and the custody account closed 3 February 1938, all of which were jointly held by the Account Owners at Bank II, given that these accounts were closed prior to the *Anschluss*, the CRT concludes that it is plausible that the Account Owners received the proceeds of these accounts.

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 Owners were his parents, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the three custody accounts held at Bank I, and the demand deposit account and the custody account held at Bank II.

Amount of the Award

Bank I

For the purpose of this Award, Account Owner Elsa Friedman held three custody account at Bank I.

With regard to the custody account held at the Zurich branch of Bank I, Bank I's records indicate that the balance of this account was 8,900.00 Swiss Francs as of 14 September 1938, and the Austrian State Archives records indicate that as of 12 July 1938 this account was worth 6,472.16 Reichsmarks, which is the equivalent of 11,316.57 Swiss Francs.⁴ Given that the records of the Austrian State Archives provide an account value at the time Account Owner Elsa Friedmann

⁴ When converting the amounts into Swiss Francs, the CRT uses official exchange rates. The difference in value from July to September is likely the result of a decline in value of the securities during this period.

most probably lost dominion over the account, the CRT concludes that these records shall be relied upon in calculating the current value of the account. Thus, the historic value of this account is 11,316.57 Swiss Francs. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of 141,457.13 Swiss Francs.

With regard to the custody accounts held at the London and the New York branches of Bank I, 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 investigation carried out pursuant to the instructions of the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. Thus, the total value of these accounts was 26,000.00 Swiss Francs. 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 an amount of 325,000.00 Swiss Francs.

Bank II

For the purpose of this Award, Account Owner Paul Friedman held one custody account and one demand deposit account at Bank II.

With regard to the custody account, the Austrian census records indicate that the value of the custody account was 3,915.60 Reichsmarks as of 12 July 1938. The CRT notes that in 1969, the Claimant received compensation for the 7% *Pfandbriefe der Pester ung. Com. Bank 1930* (7% *Pest Hungarian Commerce Bank 1930*) mortgage bond worth 1,150.00 Swiss Francs, or 657.68 Reichsmarks. Thus, the amount of 657.68 Reichsmarks shall be deducted from the total amount of the securities held at Bank II. Consequently, the value of the securities held at Bank II was 3,257.92 Reichsmarks, which is the equivalent of 5,696.47 Swiss Francs. Although the auditors who carried out the ICEP Investigation indicated that the amount in the custody account was 3,708.08 Swiss Francs as of 12 November 1938, given that the records of the Austrian State Archives provide an account value at the time Account Owner Paul Friedmann most probably lost dominion over the account, the CRT determines that these records are to be relied upon in calculating the current value of the account.⁵ Thus, the historic value custody account less the compensation previously received by the Claimant is 5,696.47 Swiss Francs. Pursuant to Article 29 of the Rules, the current value of this amount is determined by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total amount of 71,205.88 Swiss Francs.

With regard to the demand deposit account, the Austrian census records indicate that the value of the demand deposit account was 172.31 Swiss Francs as of 12 July 1938. Pursuant to Article 29 of the Rules, the current value of this amount is determined by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total amount of 2,153.88 Swiss Francs.

⁵ As noted above, the difference in value from July to November is likely the result of a decline in value of the securities during this period.

Thus, the total award amount is 539,816.89 Swiss Francs.

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
20 May 2004