

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]
represented by Stephen Harnik

in re Account of Karl Fröhlich

Claim Numbers: 501518/LV; 501526/LV

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Karl Fröhlich (the “Account Owner”), over which Marianne Fröhlich (the “Power of Attorney Holder”) held power of attorney, 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her maternal grandfather, Karl Fröhlich, who was born on 27 October 1880 in Vienna, Austria, and was married to [REDACTED], née [REDACTED]. The Claimant stated that her grandparents, who were Jewish, had two children: [REDACTED], the Claimant’s mother, who was born on 11 November 1921 in Vienna, and [REDACTED], who passed away at the age of nine. The Claimant stated that her family resided at Dürwaringstrasse 18 in Vienna. The Claimant also stated that her grandfather was a timber merchant and that he owned a timber company. The Claimant further stated that her family fled Austria on 31 December 1938 to Switzerland, where they stayed until August 1939, when they went to the United Kingdom. The Claimant indicated that her grandfather died on 5 November 1958 in London, the United Kingdom, that her grandmother died on 19 March 1967 in Isleworth, the United Kingdom, and that her mother died on 24 February 1986 in Southall, Middlesex, the United Kingdom.

The Claimant submitted the following documents in support of her claim:

1. a statement from the Jewish Community in Vienna, confirming that Carl Fröhlich was Jewish, that he was born on 27 October 1880, and that his parents were [REDACTED] and [REDACTED], née [REDACTED];
2. a letter from the Federation of Commerce in Vienna (*Handelsbund*), dated 12 August 1938 and addressed to the Nazi authorities, which states that the timber company named *Karl Fröhlich* located on Schwarzenbergstrasse 8 in Vienna would be liquidated;
3. a notice from the Secret State Police in Vienna, stating that Karl Israel Fröhlich, whose last known address was Dürwangasse 18, Vienna, was in the United States as of 30 December 1938;
4. an application, dated 5 December 1963, to the Austrian government for compensation of assets belonging to victims of political persecution for Karl and Friederike Marianna, née Hadra;
5. the Claimant's mother's birth certificate, identifying her parents as Karl and Friederika Marianne Fröhlich, née Hadra;
6. the Claimant's mother's British Certificate of Naturalization, identifying her parents as Karl and Friederike Marianne Fröhlich, and showing that she was born in Vienna;
7. the Claimant's birth certificate, which identifies her parents as [REDACTED] and [REDACTED], née [REDACTED];
8. the Claimant's mother's death certificate, which states that she was born in Austria, and that the name of the informant of her death was [REDACTED];
9. the will of Friederike Marianne Frohlich, naming her daughter, [REDACTED], the sole beneficiary of her entire estate; and
10. the will of [REDACTED], naming her husband, [REDACTED], the sole beneficiary of her entire estate, and in the event that her husband predeceased her, bequeathing her estate in equal shares to her children: [REDACTED 2] and [REDACTED 1].

The Claimant stated that she was born on 13 June 1958 in Southall. The Claimant represents her brother, [REDACTED 2], who was born on 12 April 1955 in Petersfield, the United Kingdom.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form dated 13 July 1931 and printouts from the Bank's database. According to these records, the Account Owner was Karl Fröhlich, who resided at Schwarzenbergstrasse 8 in Vienna, Austria, and the Power of Attorney Holder was Marianne Fröhlich, the Account Owner's wife. The Bank's records indicate that the Account Owner held one account, the type of which is unknown. The Bank's records further indicate that the account was opened no later than July 1931 and that it was closed on 28 August 1950. The Bank's records do not 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 the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/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 Karl Fröhlich and Marianne Fröhlich, numbered 27498 and 27497 respectively, dated 14 July 1938. The records indicate that Karl Fröhlich was Jewish, that he was born on 27 October 1880 in Vienna, and that he was married to Marianne Fröhlich, née Hadra, who was Jewish. The records further indicate that Karl and Marianne Fröhlich resided at Dürwaringgasse 18 in Vienna XVIII, and that he was a timber merchant. According to the records, Karl Fröhlich owned a company located at Schwarzenbergstrasse 8 in Vienna, which was valued at 101,005.86 Reichsmark (“RM”), and rental property located at Schmidgasse 4 in Vienna, which was valued at RM 70,000.00. The records further indicate that Karl Fröhlich owned foreign currency denominated securities held in Austrian, Hungarian, and Polish banks, and that he was ordered to sell these securities to the *Reichsbankhauptstelle* in Vienna on 8 August 1938. Finally, the records indicate that Karl Fröhlich had left Austria by 30 December 1938. These records make no mention of assets held in a Swiss bank account.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s grandfather’s name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant’s grandmother’s name matches the published name of the Power of Attorney Holder. The Claimant identified the Account Owner’s address in Vienna and the relationship between the Account Owner and the Power of Attorney Holder, which match unpublished information about the Account Owner contained in the Bank’s records.

In support of her claim, the Claimant submitted documents, including a statement from the Jewish Community in Vienna, confirming that Carl [sic] Fröhlich was Jewish, that he was born on 27 October 1880, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; a letter from the Federation of Commerce in Vienna (*Handelsbund*) dated 12 August 1938 and addressed to the Nazi authorities, which states that the timber company named *Karl Fröhlich*, located on Schwarzenbergstrasse 8 in Vienna, would be liquidated; a notice from the Secret State Police in Vienna, stating that Karl Israel Fröhlich, whose last known address was Dürwanggasse 18, Vienna, was in the United States as of 30 December 1938; an application,

dated 5 December 1963, to the Austrian government for compensation of assets belonging to victims of political persecution for Karl and Friederike Marianna, née Hadra; the Claimant's mother's birth certificate, identifying her parents as Karl and Friederika Marianne Fröhlich, née Hadra; and the Claimant's mother's British Certificate of Naturalization, identifying her parents as Karl and Friederike Marianne Fröhlich and showing that she was born in Vienna; providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names and resided at the same address recorded in the Bank's records as the names and address of the Account Owner and the Power of Attorney Holder.

The CRT notes that there are no other claims to this account.

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 he fled Austria in 1938.

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 the Claimant's grandfather. These documents include the Claimant's mother's birth certificate, identifying her parents as Karl and Friederika Marianne Fröhlich, née Hadra; [REDACTED]'s British Certificate of Naturalization, likewise identifying her parents as Karl and Friederike Marianne Fröhlich and showing that she was born in Vienna; and the Claimant's own birth certificate, which identifies her parents as [REDACTED] and [REDACTED], née [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs other than the party which the Claimant represents.

The Issue of Who Received the Proceeds

Given that the Account Owner fled from Austria in 1938; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 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 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. 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 her grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in 1945 the average value of an unknown type of account was 3,950.00 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 49,375.00.

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 represents her brother. Accordingly, the Claimant and her brother are each 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
31 March 2005