

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]

and to Claimant [REDACTED 3]

in re Accounts of Fritz Herrmann, Rudolf Herrmann, and Sophie Herrmann

Claim Numbers: 210926/MBC; 210927/MBC; 210928/MBC

Award Amount: 211,875.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Rudolf Herrmann and Sophie Herrmann; and upon the claim of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Fritz Herrmann. This Award is to the published accounts of Fritz Herrmann (“Account Owner Fritz Herrmann”), Rudolf Herrmann (“Account Owner Rudolf Herrmann”), and Sophie Herrmann (“Account Owner Sophie Herrmann”) (together the “Account Owners”) at the [REDACTED] (“Bank I”);¹ to the published account of Account Owner Sophie Herrmann, over which Account Owner Rudolf Herrmann and Account Owner Fritz Herrmann held power of attorney, at the Basel branch of the [REDACTED] (“Bank II”), and to the published account of Account Owner Rudolf Herrmann at Bank II.

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP list”), Fritz Herrmann is indicated as having four accounts, Rudolf Herrmann from Austria is indicated as having four accounts, Rudolf Herrmann from Vienna, Austria is indicated as having one account, Sophie Herrmann from Austria is indicated as having four accounts, and *Frau* Sophie Herrmann, née *Frl.* Sophie Steingraber, from Vienna, is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts jointly owned by Fritz Herrmann, Rudolf Herrmann, and Sophie Herrmann, two accounts belonging solely to Fritz Herrmann, one account belonging solely to Sophie Herrmann, and one account belonging solely to Rudolf Herrmann.

Information Provided by the Claimants

Claimant [REDACTED 3] submitted a Claim Form identifying Account Owner Fritz Herrmann as her father, Dr. Fritz Herrmann, who was born on 24 December 1905 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], on 2 December 1936 in Morez, France. Claimant [REDACTED 3] further identified Account Owner Rudolf Herrmann as her paternal uncle, Rudolf Herrmann; and Account Owner Sophie Herrmann as her paternal grandmother, Sophie Herrmann, née Steingraber.

Claimant [REDACTED 3] indicated that her father Dr. Fritz Herrmann was an ophthalmologist and optician, and resided at Taborstrasse 17a in Vienna. Claimant [REDACTED 3] indicated that her father, who was Jewish, fled the political climate in Vienna in 1936, and moved to France, and then in 1937 to London, the United Kingdom; following his arrival in the United Kingdom, he was interned on the Isle of Man for six months.

Finally, Claimant [REDACTED 3] indicated that her father died on 22 July 1984 in London.

Claimant [REDACTED 1], who is Claimant [REDACTED 3]'s cousin, submitted two Claim Forms, identifying Account Owner Rudolf Herrmann as her father, Rudolf Herrmann, who was born on 30 August 1909 in Vienna and was married to [REDACTED] on 20 January 1947 in London. Claimant [REDACTED 1] further identified Account Owner Fritz Herrmann as her paternal uncle, Fritz Herrmann, and Account Owner Sophie Herrmann as her paternal grandmother, Sophie Herrmann, née Steingraber, who was born on 21 June 1879 in Vienna and was married to [REDACTED] on 31 October 1904 in Vienna.

Claimant [REDACTED 1] indicated that that her parents, who were Jewish, had two children, namely herself and her brother, [REDACTED 2], and that her father resided at Schleifmühlgasse 2 in Vienna. Claimant [REDACTED 1] further indicated that her father left Vienna in approximately 1931 for Sarajevo and Zagreb, Yugoslavia (today Bosnia and Herzegovina, and Croatia, respectively), and then fled the political climate in continental Europe by moving in 1938 to London. Claimant [REDACTED 1] also indicated that her grandmother Sophie Herrmann, who was Jewish, fled the political climate in Austria and moved in 1937 to Zagreb, and then in 1939 to England, where she died in 1941.

Claimant [REDACTED 1] indicated that her father Rudolf Herrmann died on 3 August 2002.

In support of her claim, Claimant [REDACTED 3] submitted copies of documents, including (1) her grandparents' Vienna residence certificate, dated 13 July 1916, indicating that Med. Dr. [REDACTED], his spouse Sofie Herrmann, née Steingraber, and their children Fritz, who was born on 24 December 1905, and Rudolf, who was born on 30 July 1909, resided in Vienna; (2) Fritz Herrmann's birth certificate, indicating that he was born on 24 December 1905 in Vienna to [REDACTED] and Sophie Herrmann; (3) Fritz Herrmann's Vienna residence certificate (*Heimatschein*) dated 25 September 1924; (4) Fritz Herrmann's Austrian passport, containing his signature and indicating that he was a medical doctor and that he resided at Schleifmühlgasse 2 in Vienna; (5) her parents' French family booklet (*livret de famille*) indicating that Fritz Herrmann was born in Vienna and that his parents were [REDACTED] and Sophie Herrmann;

(6) her father's British identity certificate issued on 4 November 1939, indicating that Fritz Herrmann was a "refugee from Nazi oppression;" (7) Claimant [REDACTED 3]'s own birth certificate, indicating that [REDACTED 3] was born on 22 December 1937 and that Fritz Herrmann was her father; and (8) her father's British certificate of naturalization, issued on 5 March 1948, indicating that Fritz Herrmann was the son of [REDACTED] and Sophie Herrmann.

In support of her claim, Claimant [REDACTED 1] submitted copies of documents, including: (1) her grandparents' Vienna residence certificate, which was also submitted by Claimant [REDACTED 3]; (2) her grandmother's residence certificate, issued by the City of Vienna on 28 June 1934, indicating that Sofia Herrmann was a resident of Vienna; (3) her grandmother's identification card (*Objava - Legitamacija*), issued in 1938 in Zagreb, indicating that Sophie Herrmann resided in Zagreb, and bearing her signature; (4) her father's British certificate of naturalization, issued on 23 November 1946, indicating that Rudolf Herrmann was the son of [REDACTED] and Sophie Herrmann; (5) her parents' marriage certificate, indicating that Rudolph Herrmann and [REDACTED] were married on 20 January 1947 in London; (6) her own marriage certificate, indicating that [REDACTED 1], the daughter of Rudolf Herrmann, married [REDACTED] on 4 February 1978; (7) her father's will, indicating that [REDACTED 1] and [REDACTED 2] are Rudolf Herrmann's heirs; and (8) her father's death certificate, indicating that Rudolf Herrmann died on 3 August 2002 in London.

Claimant [REDACTED 3] indicated that she was born on 22 December 1937 in London.

Claimant [REDACTED 1] indicated that she was born on 21 February 1949 in London. Claimant [REDACTED 1] is representing her brother, [REDACTED 2], who was born on 20 February 1951 in London.

Information Available in the Banks' Records

Bank I

Bank I's records consist of two customer cards. According to the first customer card, the Account Owners were *Frau* (Mrs.) Sophie Herrmann, Dr. Fritz Herrmann, and Dr. Rudolf Herrmann. This record indicates that the Account Owners resided in Vienna, Austria, and Sarajevo, Yugoslavia. That record further indicates that the Account Owners jointly held two accounts: one demand deposit account, which was opened on 31 May 1934 and closed on 10 December 1938; and one custody account, numbered L 43897, which was closed on 22 March 1938.

The second customer card indicates that Account Owner Fritz Herrmann also held two accounts at Bank I: one custody account, numbered L 59048, which was opened on 26 August 1937 and closed on 24 March 1938; and one demand deposit account, which was opened on 20 September 1937 and closed on 20 October 1937.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of Bank I to obtain additional information about custody accounts L 43897 and L 59048 (“Voluntary Assistance”). Bank I provided the CRT with additional documents.

These documents consist of one custody account identification card (*Leitkarte*) for each account, and custody account portfolio holding cards (*Depotvalorenkarten*) for each security held within the custody accounts.

These documents first indicate that Account Owner Fritz Herrmann’s correspondence address was in care of Miss Esther Simpson, 13 Brunswick Square in London.

These documents also indicate that the Account Owners held the following securities in joint custody account L 43897:

- *3½% Schweizerische Bundesbahnen 1935* bonds with a face value of 18,000.00 Swiss Francs (“SF”) which were transferred to an unknown source on 19 March 1938;
- *7% Austrian Government International Loan 1930 sinking fund gold Bonds 1957, Amerikanische Tranche* bonds with a face value of 5,000.00 United States Dollars (“US \$”) which were transferred out of the account on 19 March 1938;
- *6% Stadt Baden bei Wien von 1935* bonds with a face value of 11,000.00 Austrian Schillings (“AS”) which were transferred out of the account on 19 March 1938;
- *6% Bundeshauptstadt Wien von 1934* bonds with a face value of AS 150,000.00 which were transferred to Dr. Fritz Adler on 19 March 1938; and
- *3% Oesterreichische-Ungarische Staatseisenbahn-Gesellschaft, altes Netz C. C. Stücke mit Certificats de Négociation* bonds with a face value of SF 86,000.00 which were transferred out of the account on 19 March 1938.

In addition, these documents indicate that Account Owner Fritz Herrmann held the following securities in custody account L 59048:

- *3½% Schweizerische Bundesbahnen 1935* bonds with a face value of SF 8,000.00 which were transferred to the benefit of a person named Adler on 22 March 1938;
- *7% Austrian Government International Loan 1930 sinking fund gold Bonds per 1 July 1957, Amerikanische Tranche* bonds with a face value of US \$2,000.00 which were transferred out of the account on 22 March 1938;
- *6% Stadt Baden bei Wien von 1935* bonds with a face value of AS 6,000.00 which were transferred to the benefit of a person named Adler, care of *Lombardbank Zürich* on 22 March 1938;
- *6% Stadt Wien von 1934* bonds with a face value of AS 30,000.00 which were delivered to a person named Adler, care of *Lombardbank Zürich* on 22 March 1938; and
- *3% Oesterreichische-Ungarische Staatseisenbahn-Gesellschaft, Ergänzungsnetz Serie A C. C. Stücke mit Certificats de Négociation* bonds with a face value of SF 26,500.00 which were delivered to a person named Adler in Zürich on 22 March 1938.

The amount in the demand deposit accounts on the dates of their closure is unknown.

Bank II

Bank II's records consist of two signed power of attorney forms, dated 15 February 1934 and 8 August 1934; signed forms containing instructions regarding bank correspondence; and a signed confirmation of the receipt of general conditions applying to custody accounts dated 15 February 1934.

According to Bank II's records, Account Owner Sophie Herrmann was *Frau* Sophie Herrmann, née Steingraber, who resided at Schleifmühlgasse 2, Vienna, and the Power of Attorney Holders were Dr. Rudolf Herrmann, who resided at Aleksandrova 53 in Sarajevo, Yugoslavia, and Dr. Fritz Herrmann, who provided an address of Schleifmühlgasse 2, Vienna.

Bank II's records indicate that Account Owner Sophie Herrmann held a custody account numbered 39313 that was opened on 15 February 1934. According to these records, on 15 February 1934, Account Owner Sophie Herrmann ordered Bank II to mail any correspondence to Power of Attorney Holder Rudolf Herrmann in Sarajevo, and on 14 July 1934 changed her instructions, ordering Bank II to mail correspondence to *Herr* (Mr.) Wickle at the *Society for Chemical Industry (Gesellschaft für Chemische Industrie)* in Basel, Switzerland.

Bank II's records further indicate that Account Owner Rudolf Herrmann held an account, the type of which is not indicated, numbered 38891. Bank II's records indicate that Account Owner Rudolf Herrmann instructed Bank II on 25 March 1935 to mail correspondence to Josef Fischer at Mlinarska cesta 49, Zagreb, Yugoslavia.

Bank II's records do not indicate the value of these accounts, nor do they indicate the dates on which these accounts were closed. 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 II'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 II's records that Account Owner Sophie Herrmann or Account Owner Rudolf Herrmann or their heirs closed these accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 three claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Their relatives' names match the published names of the Account Owners. Claimant [REDACTED 3] identified her father's professional title and cities of residence, and her grandmother's street address, which match unpublished information about Account Owner Fritz Herrmann and Account Owner Sophie Herrmann contained in the Banks' records. Claimant [REDACTED 1] identified her father's second country of residence, which matches unpublished information about Account Owner Rudolf Herrmann contained in the Banks' records.

In support of her claim, Claimant [REDACTED 3] submitted copies of documents, including her grandfather's Vienna residence certificate, her father's birth certificate, her father's residence certificate, her father's Austrian passport, her parents' French family book, her father's British identity certificate, her own birth certificate, and her father's British certificate of naturalization. In support of her claim, Claimant [REDACTED 1] submitted copies of documents, including her grandfather's Vienna residence certificate, her grandmother's Vienna residence certificate, her grandmother's identification card, her father's British certificate of naturalization, her parents' marriage certificate, her own marriage certificate, her father's will, and her father's death certificate. These documents provide independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same cities and countries recorded in the Banks' records as the names and cities and countries of residence of the Account Owners.

The Claimants also submitted samples of their relatives' signatures, which match the signature samples contained in Bank II's records. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence than the countries of residence of the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, and that they all fled the political climate in Austria and other central European countries in the 1930s and settled in England. In addition, Claimant [REDACTED 3] also submitted a certificate issued by the British authorities on 4 November 1939, indicating that Fritz Herrmann was a "refugee from Nazi oppression."

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents demonstrating that they are Account Owner Sophie Herrmann's granddaughters, that Claimant [REDACTED 3] is the daughter of Account Owner Fritz Herrmann, and that Claimant [REDACTED 1] is the daughter of Account Owner Rudolf Herrmann. These documents include Claimant [REDACTED 3]'s father's birth certificate, and Claimant [REDACTED 3]'s own birth certificate indicating Fritz Herrmann was her father, as well as Claimant [REDACTED 1]'s birth certificate and marriage certificate,

indicating that she is the daughter of Rudolph Herrmann, and her father's death certificate and will, indicating that [REDACTED 1] and [REDACTED 2] are Rudolf Herrmann's children. There is no information to indicate that the Account Owners have surviving heirs other than the party whom Claimant [REDACTED 1] is representing.

The Issue of Who Received the Proceeds

Bank I's record indicates that Account Owner Fritz Herrmann's demand deposit account at Bank I was closed on 20 October 1937, which was prior to the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). Therefore the CRT concludes that Account Owner Fritz Herrmann had access to that account until the date of its closure and received the proceeds of that account himself.

Bank I's records indicate that the securities in custody account numbered L43897 jointly held by the Account Owners were transferred out of the account on 19 March 1938 and that the account was closed three days later, on 22 March 1938. The records further show that the securities in custody account L59048 held by Account Owner Fritz Hermann were transferred out of the account on 22 March and that the account was closed two days later, on 24 March 1938. The records also show that the demand deposit account jointly owned by the Account Owners was closed on 10 December 1938. With regard to these three accounts, the CRT notes that, although the accounts were closed after the *Anschluss*, they were closed at a time when the Account Owners were outside Nazi-dominated territory. As detailed above, the Claimants explained that the family left Austria prior to the *Anschluss* and that Account Owner Fritz Hermann emigrated to London as early as 1937. There is no evidence that any remaining family members remained in Austria after the *Anschluss*. The CRT further notes that the Account Owners had been in contact with Bank I after they left Austria, as is demonstrated by the fact that Bank I's records contain contact information for all Account Owners in Yugoslavia and/or London. In summary, none of the Account Owners – or their family members – was ever physically in Nazi-allied or Nazi-occupied territory, and all of the Account Owners had notified Bank I of their new contact information. The CRT also notes that none of the Account Owners registered their assets pursuant to a decree, dated 26 April 1938, by which the Nazi Regime required all Jews who resided 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"). This strongly suggests that the Account Owners had secured the assets in these accounts from the reach of the Reich. Based upon these facts, the CRT concludes that the Account Owners retained dominion over the assets in these accounts; that they ordered the transfer of the securities; that they received the proceeds of the accounts; and that the accounts were closed properly.

With regard to the accounts at Bank II, the records indicate that Account Owner Sophie Herrmann held one custody account at Bank II and that Account Owner Rudolf Herrmann held one account of unknown type at Bank II. Given that there is no record in Bank II's records of the payment of Account Owner Sophie Herrmann's account or Account Owner Rudolf Herrmann's account to them, nor any record of a date of closure of the accounts; that Account Owner Sophie Herrmann, Account Owner Rudolf Herrmann, and their heirs would not have been able to obtain information about their accounts 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; 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 Account Owner Rudolf Herrmann, Account Owner Sophie Herrmann, the Power of Attorney Holders, 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 Claimants and represented party [REDACTED 2]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that Account Owner Fritz Herrmann was her father, that Account Owner Rudolf Herrmann was her uncle, and that Account Owner Sophie Herrmann was her grandmother. Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Rudolf Herrmann was her father and the father of represented party [REDACTED 2], that Account Owner Fritz Herrmann was her uncle and the uncle of represented party [REDACTED 2], and that Account Owner Sophie Herrmann was her grandmother and the grandmother of represented party [REDACTED 2]. Those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts, with the exception of the demand deposit account held by Account Owner Fritz Herrmann at Bank I.

Further, the CRT notes that Claimant [REDACTED 3], as Account Owner Fritz Herrmann's daughter, has a better entitlement to Account Owner Fritz Herrmann's account than Claimant [REDACTED 1] and represented party [REDACTED 2], Account Owner Fritz Herrmann's niece and nephew, respectively. Likewise, Claimant [REDACTED 1] and represented party [REDACTED 2], as Account Owner Rudolf Herrmann's children, have a better entitlement to Account Owner Rudolf Herrmann's account than Claimant [REDACTED 3], Account Owner Rudolf Herrmann's niece.

Amount of the Award

In this case, the Account Owner Sophie Herrmann held one custody account at Bank II, and Account Owner Rudolf Herrmann held one account of an unknown type at Bank II.

With respect to these accounts, 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 custody account was SF 13,000.00, and the average value of an account of unknown type was SF 3,950.00. Thus, the combined 1945 average value for the three accounts at issue is SF 16,950.00. 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 211,875.00.

Division of the Award

With respect to the custody account held by Account Owner Sophie Herrmann at Bank II, 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. Accordingly, Claimant [REDACTED 3] is entitled to one half of the awarded amount, or SF 81,250.00, and Claimant [REDACTED 1] and represented party [REDACTED 2] are each entitled to one-fourth of the awarded amount, or SF 40,625.00.

With respect to the account of unknown type held by Account Owner Rudolf Herrmann at Bank II, according to Article 23(1)(c) of the Rules, Claimant [REDACTED 1] and represented party [REDACTED 2], as Account Owner Rudolf Herrmann's children, are each entitled to one half of the awarded amount for that account of SF 49,375.00, or SF 24,687.50 each.

Accordingly, Claimant [REDACTED 3] is entitled to SF 81,250.00, Claimant [REDACTED 1] is entitled to SF 65,312.50, and represented party [REDACTED 2] is entitled to SF 65,312.50.

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
26 November 2008