

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Emil Hoffmann and Adele Hoffmann

Claim Number: 705397/SJ/AC^{1,2}

Award Amount: 508,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Emil Hoffmann. This award is to the published and unpublished accounts of Emil Hoffmann (“Account Owner Emil Hoffmann”) and Adele Hoffmann (“Account Owner Adele Hoffmann”) (together the “Account Owners”), over which Erich Hoffmann (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (“Bank I”), and the published accounts of the Account Owners at the [REDACTED] (“Bank II”) (together the “Banks”).³

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 an Initial Questionnaire (“IQ”) identifying the Account Owners as his paternal grandparents, Emil Hoffmann, who was born in approximately 1885, and Adele Hoffmann. The Claimant indicated that his grandparents, who were Jewish, lived in Vienna,

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0652 087, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs that can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 705397.

² The Claimant submitted an additional IQ to the account of Hermann Leopoldi, which was forwarded to the CRT and assigned the claim number 705398. The CRT will treat the claim to this account in a separate determination.

³ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Adele Hoffmann of Austria is listed twice as having three accounts, Emil Hoffmann of Austria is listed twice as having three accounts and Adele Hoffmann of Vienna, Austria is listed as having one account. Upon careful review, the CRT has concluded that the listings of Adele Hoffmann and Emil Hoffmann are duplicate listings and that, in fact, the Banks’ records evidence the existence of only five accounts, jointly held by Adele and Emil Hoffmann.

Austria until they fled to the United States during the Second World War. The Claimant also indicated that his grandfather owned a button factory in Vienna, and that his father Erich Hoffmann, Emil and Adele Hoffmann's son, was employed as a sales representative for the company. Additionally, the Claimant indicated that Switzerland was one of the territories in which Erich Hoffmann represented his father's company before the company was confiscated and aryanized. The Claimant indicated that his grandfather died in 1941 in New York, New York, the United States.

The Claimant indicated that he was born on 15 August 1943.

Information Available in the Banks' Records

Bank I

Bank I's records consist of a customer card and printouts from the Bank's database. According to these records, the Account Owners were Emil and *Frau* (Mrs.) Adele Hoffmann, and the Power of Attorney Holder was Erich Hoffmann, the Account Owners' son. Bank I's records indicate that the Account Owners resided at Leopoldgasse 6 in Vienna II. Bank I's records further indicate that the Account Owners held a custody account, numbered 18330. Additionally, Bank I's records indicate that power of attorney was granted on 11 October 1930 and that, as of 23 September 1931, Bank I was ordered to hold all correspondence.

Bank I's records indicate that the account was transferred on 12 November 1931 to a numbered account, which was held under the designation 3308. The amount in the account on the date of its transfer is unknown.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of Bank I to obtain additional information about this account ("Voluntary Assistance"). Bank I provided the CRT with additional documents. These documents consist of a list of closed numbered accounts and a customer card. According to these documents, account 3308 was closed on 29 October 1938, and the proceeds were transferred to Manhattan, New York, the United States. These documents further indicate that the Account Owners held an additional custody account, numbered 26421, which was also linked to a savings account. For these two accounts, the Bank's records indicate that the Account Owners listed Obere Donaustrasse 107, Vienna, as their address.⁴ According to these records, custody account 26421 and the savings account were transferred and closed on 30 October 1938. The amount in the accounts on the date of their transfer is unknown.

There is no evidence in Bank I's records that the Account Owners, the Power of Attorney Holder or their heirs closed these accounts and received the proceeds themselves.

⁴ The CRT notes that this address is identical to that given for Emil Hoffmann's company *J. Friedmann*, cited in his 1938 Census declaration (see below).

Bank II

Bank II's record consists of a customer card. According to this record, the Account Owners were Emil and *Frau* (Mrs.) Adele Hoffmann who resided at Leopoldstrasse 6, Vienna II.⁵ Bank II's record indicates that the Account Owners held one savings account, numbered 44402, and one custody account, numbered L36121.

Bank II's record indicates that the savings account was closed on 12 June 1938 and that the custody account was closed on 28 June 1938. The amounts in the accounts on their dates of closure are unknown. There is no evidence in Bank II's record that the Account Owners or their heirs closed the accounts 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, 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 Emil Hoffmann, numbered 21615. These records indicate that Emil Hoffmann was born on 10 January 1870, that he was the owner of a button manufacturing and trading company, and that he was married to Adele Katz. Furthermore, these records indicate that Emil Hoffmann resided at Leopoldgasse 6-8, Vienna II, and that he was the owner of a button manufacturing company known as *J. Friedmann*, which was located at Obere Donaustrasse 107, Vienna II. Emil Hoffmann's declaration is dated 30 June 1938 and is signed by [REDACTED], with the notation that owner of the business was traveling on business and that this person was acting as his representative. Another document in the file labeled "Asset Declaration" (*Vermögensbekenntnis*) provides an update of the original declaration and was signed by Emil Hoffmann in Vienna on 7 June 1939. Although these records list additional financial assets, including some that were held in Swiss Francs ("SF"), they make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's grandparent's names and city and country of residence match the published names and city (in the case of one of the accounts owned by Account Owner Adele Hoffmann) and country of residence of the Account Owners. The Claimant identified the Account Owners' son, which matches unpublished information about the Power of Attorney Holder contained in Bank I's records. Furthermore, the Claimant indicated that Emil Hoffmann owned a button manufacturing company, which matches information contained about Account Owner Emil Hoffmann in the 1938 Census declaration filed by Account Owner Emil Hoffmann.

⁵ The CRT notes that this address is substantially similar to one of the addresses listed in Bank I's records, which in turn is the same as that listed in the 1938 Census records.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Emil Hoffmann, 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"). This indicates that the Claimant has based his claim 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 him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Finally, the CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners was Jewish, that they lived in Vienna prior to Nazi occupation and that Emil Hoffmann's button factory was aryanized. The CRT notes that Account Owner Emil Hoffmann was required to declare his assets pursuant to the 1938 Census decree.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information demonstrating that the Account Owners were the Claimant's paternal grandparents. There is no information to indicate that the Account Owners have other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in Bank I's records and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owners and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

Bank I's records indicate that custody account 3308 was closed on 29 October 1938, and that custody account 26421 and a savings account were closed on 30 October 1938, and Bank II's record indicates that savings account 44402 was closed on 12 June 1938, and that custody account L36121 was closed on 28 June 1938.

The CRT notes that, although the Claimant did not indicate when his grandfather fled Austria, documents in Account Owner Emil Hoffmann's 1938 Census file clearly indicate that Account Owner Emil Hoffmann remained in Nazi-controlled Austria until at least 7 June 1939. Given that there is no record of the payment of the Account Owners' accounts to them; that the

Account Owners resided in Nazi-controlled Austria and that Account Owner Emil Hoffmann's factory was aryanized; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Banks 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 Owners, 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 Owners were his paternal grandparents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held three custody accounts and two savings 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 a savings account was SF 830.00. Thus, the total 1945 average value of the five accounts at issue is SF 40,660.00. 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 508,250.00.

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
3 March 2006