

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Walter Friedrich

in re Accounts of Fritz Langfelder

Claim Number: 501728/RS

Award Amount: 12,956.25 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Fritz Langfelder (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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her maternal grandmother’s cousin, Fritz Langfelder. According to information provided by the Claimant, Fritz Langfelder’s parents were [REDACTED] and [REDACTED], née [REDACTED]. The Claimant explained that [REDACTED] and [REDACTED] had two other children, [REDACTED] and [REDACTED]. The Claimant stated that [REDACTED]’s sister was [REDACTED], née [REDACTED], who was the mother of the Claimant’s maternal grandmother, [REDACTED], née [REDACTED]. The Claimant stated that [REDACTED]’s daughter [REDACTED], née [REDACTED], was her mother.

The Claimant stated that her grandmother’s cousin, Fritz Langfelder, was born on 9 February 1882 in Langenzersdorf, Austria, and was married to [REDACTED] on 25 March 1923 in Vienna. According to the Claimant, Fritz Langfelder, who was Jewish, was a railway employee who resided in Vienna at Böcklinstrasse 92. The Claimant stated that Fritz Langfelder died on 6 July 1942 in Vienna, but did not indicate his cause of death.

In support of her claim, the Claimant submitted copies of:

- excerpts from submissions of various family members made pursuant to a 1938 Nazi decree requiring the registration of Jewish-owned assets, which are described in detail below;
- the declaration of death of Fritz Langfelder, which indicates that he died on 6 July 1942 of undisclosed causes; that he was Jewish; that at the time of his death, he resided at Odeongasse, Vienna; that he was survived by his widow [REDACTED]; that he had no children; and that he was also survived by his siblings [REDACTED] and [REDACTED];
- a certificate of inheritance (*Einantwortungsurkunde*), issued by the District Court of Vienna (*Bezirksgericht Innere Stadt Wien*) on 11 June 1952, which indicates that the heirs of the retiree Fritz Langfelder, who died on 6 July 1942 in Vienna, were his cousin [REDACTED] of Ramat-Gan, Israel (one-half of the estate), his sister [REDACTED] (one-quarter of the estate), and his brother [REDACTED] (one-quarter of the estate);
- the declaration of death of [REDACTED], which indicates that he was declared deceased as of 8 May 1945, that he was Jewish, and that he had no children;
- the declaration of death of [REDACTED], née [REDACTED], which indicates that she was declared deceased as of 8 May 1945 and had perished in Auschwitz, that she was Jewish, that she had no children, that her brothers were Fritz Langfelder and [REDACTED], both deceased, and that her heirs were relatives of her mother, [REDACTED], née [REDACTED], and included her mother's sister [REDACTED], whose children included [REDACTED], née [REDACTED];
- a certificate of inheritance (*Einantwortungsurkunde*), issued by the District Court of Vienna (*Bezirksgericht Innere Stadt Wien*) on 23 October 1952, which indicates that the heirs of [REDACTED], who was declared deceased as of 8 May 1945, included [REDACTED] of Vienna, who was to inherit one-sixth of his estate;
- a certificate of inheritance (*Einantwortungsurkunde*), issued by the District Court of Vienna (*Bezirksgericht Innere Stadt Wien*) on 22 October 1952, which indicates that the heirs of [REDACTED], née [REDACTED], who was declared deceased as of 8 May 1945, included [REDACTED] of Vienna, and that the Bank held assets in the name of Fritz Langfelder, one-quarter of which passed by the laws of succession to the heirs of [REDACTED], and another quarter of which passed to the heirs of [REDACTED]. The court further indicated that the assets were to be distributed to these heirs, who included [REDACTED] of Vienna. The court further indicated that the Bank was consequently empowered to distribute the assets that it held in the name of Fritz Langfelder to the entitled heirs;
- the birth certificate of [REDACTED], indicating that she was the daughter of [REDACTED] and [REDACTED];
- the death certificate of [REDACTED], indicating that she died on 31 March 1956;
- the death certificate of [REDACTED], née [REDACTED], indicating that she died on 31 March 1980 in Vienna;

- a court document relating to the estate of [REDACTED] (the Claimant’s mother), indicating that she had died on 31 March 1980, and that one of her entitled heirs was her daughter [REDACTED] of Vienna;
- her own birth certificate, indicating that [REDACTED] was the daughter of [REDACTED], née [REDACTED], that she was born on 13 May 1931 in Vienna, and that she was Jewish; and
- the certificate of citizenship of [REDACTED], indicating that she was an Austrian citizen, and that her maiden name was [REDACTED].

The Claimant indicated that she was born on 13 May 1931 in Vienna.

Information Available in the Bank’s Records

The Bank’s records consist of documents pertaining to the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the “1945 Freeze”) and to the Federal Decree of 20 December 1962 (the “Federal Decree”), in which the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (“the 1962 Survey”); correspondence between the Swiss Compensation Office (*Schweizerische Verrechnungsstelle*) and the Bank, internal Bank memoranda, a list of accounts considered for registration in the 1962 Survey, and printouts from the Bank’s database of accounts frozen pursuant to the 1945 Freeze.

According to these records, the Account Owner was originally Fritz Langfelder, who resided at Böcklinstrasse 92, in Vienna, Austria. The Bank’s records indicate that the Account Owner held one custody account and one demand deposit account. The records indicate that these assets were blocked pursuant to the 1945 Freeze.

The records include a letter, dated 4 October 1950, from the Bank to Dr. Egon Morgenstern, a lawyer in Vienna, which states that the Bank had received the required documents from Dr. Morgenstern [authorizing him to obtain information about the assets] and was therefore able to inform him that Fritz Langfelder held 2½% *Kassa-Obl.* bonds issued by the Bank that were to mature on 2 May 1952 with a total face value of SF 10,000.00, and SF 13,320.50 in cash at the Bank. The Bank informed Dr. Morgenstern that these assets were frozen pursuant to the 1945 Freeze, and that they therefore could only be accessed with the consent of the Swiss Compensation Office and pursuant to specific requirements.¹ With its letter, the Bank enclosed a copy of the regulations regarding the unfreezing of assets and requested that Dr. Morgenstern provide the relevant materials for his clients. The Bank’s letter noted receipt of documents pertaining to the estate of Fritz Langfelder and to that of his late sister, [REDACTED], which were provided to it by the beneficiary or executor of her estate. The Bank noted that in order to

¹ Among the requirements for the release of frozen assets was the reporting of the name, address, and nationality of the asset/account owner and of any power of attorney holder over the assets/account.

pay out the assets, it also required the consent of Fritz Langfelder's brother, [REDACTED], which the Bank had not yet received.

In a letter dated 23 September 1952 from the Bank to the Swiss Compensation Office, the Bank referred to its registration of assets belonging to Fritz Langfelder pursuant to the 1945 Freeze. It noted that Fritz Langfelder died on 6 July 1942 in Vienna, and that his heirs were his cousin, [REDACTED], a citizen of Czechoslovakia who resided in Ramat-Gan, Israel (one-half of the estate) and his siblings [REDACTED] and [REDACTED] (one-fourth of the estate each). The Bank noted that [REDACTED] had requested access to his share of the estate, and that [REDACTED] and [REDACTED] had been reported as missing (*verschollen*). The Bank requested the release of 50% of the frozen assets for payment to [REDACTED].

On 2 October 1952, the Swiss Compensation Office wrote to the Bank and confirmed the release of 50% of the frozen assets, which totaled approximately SF 23,400.00, for payment to [REDACTED]. It informed the Bank that the remainder of the assets remained frozen.

On 18 October 1952, the Bank wrote to Dr. Morgenstern and informed him that the Swiss Compensation Office had, at the Bank's request, unfrozen half of the assets held by Fritz Langfelder valued at SF 11,699.25 and, consisting of bonds issued by the Bank with a value of SF 5,000.00 and SF 6,699.25 in cash, for the benefit of [REDACTED] of Ramat-Gan. The Bank noted that, per Mr. Morgenstern's written instructions, it had transferred an amount equal to SF 2,028.00 to Mr. Morgenstern's account at the *Sparkasse der Stadt St. Pölten* (Austria), and that SF 274.00 had been charged to the unfrozen assets for fees associated with the unfreezing of the assets. Accordingly, SF 11,699.25 less SF 274.00 in fees for a total of SF 11,425.25 was released to the benefit of [REDACTED]. Of this, SF 9,397.25 was transferred directly to [REDACTED] and SF 2,028.00 was transferred into his savings account at the *Sparkasse der Stadt St. Pölten*.

In a letter dated 22 October 1952, the Bank wrote to the Swiss Compensation Office to confirm that the remainder of Fritz Langfelder's estate, consisting of bonds worth SF 5,000.00 and cash totaling SF 6,699.30, remained frozen.

In a letter dated 13 November 1952, the Bank wrote to the Swiss Compensation Office regarding the two missing heirs of Fritz Langfelder: [REDACTED] and [REDACTED]. With its letter, the Bank enclosed a certificate of inheritance (*Einantwortungsurkunde*),² issued by the District Court of Vienna (*Bezirksgericht Innere Stadt Wien*) on 22 October 1952, which shows that [REDACTED] and [REDACTED] had the same heirs, and that these persons were domiciled in Vienna, Budapest and in the United States. The Bank wrote that three heirs – [REDACTED], [REDACTED], and [REDACTED], who were to inherit one-ninth, one-eighteenth, and one-eighteenth of the remaining estate, respectively – had not yet been located, but that there was no indication that these three were Germans who resided in Germany. The Bank stated that it therefore considered the requirements for the release of the remaining half of Fritz Langfelder's

² The certificate of inheritance enclosed in the Bank's 13 November 1952 letter to the Swiss Compensation Office is not included among the Bank's records available to the CRT, but was included among the documents submitted by the Claimant, as noted above.

assets (totaling SF 11,700.00) to be fulfilled, and requested the release of these assets from the Freeze.

In response, the Swiss Compensation Office, in a letter dated 1 December 1952, wrote to the Bank that it would lift the freeze on all the remaining undistributed assets belonging to Fritz Langfelder. The Swiss Compensation Office noted that the heirs of the two shares of SF 5,850.00 each belonging to [REDACTED] and [REDACTED] were mostly non-Germans who lived outside Germany, and that only one-ninth of the total number of heirs had not yet been located, and that their respective shares in each of the two remaining portions of the estate [belonging to [REDACTED] and [REDACTED]] totaled as follows:

- [REDACTED]1/9 SF 650.00
- [REDACTED] 1/18 SF 325.00
- [REDACTED]1/18 SF 325.00
- TOTAL 2/9 SF 1,300.00

The Swiss Compensation Office confirmed that the other heirs, located outside Germany, would receive their share of the inheritance for their free disposal. Due to the small amounts relating to each of the three remaining heirs (identified above), the Swiss Compensation Office determined that no further documentation was necessary, and that these funds should be released from the Freeze as well. In an internal Bank memorandum, dated 2 December 1952, the Bank confirmed that, pursuant to the Swiss Compensation Office's letter of 1 December 1952, the remaining assets contained in the custody account and demand deposit account originally held by Fritz Langfelder had been released from the Freeze.

The Bank's records also include a list of accounts considered for the 1962 Survey. The list includes an entry entitled "Estate of Fritz Langfelder" and shows that, as of 15 November 1963, the Bank retained assets totaling SF 751.50 in a demand deposit account. The entry is crossed through, indicating that the account was, at some point, closed. The assets were not registered in the 1962 Survey. 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed.

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 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Fritz Langfelder, numbered 33893.

These records include Fritz Langfelder's declaration of assets, signed by him on 14 July 1938 in Vienna. According to his asset declaration, Fritz Langfelder was born on 9 February 1882 in Lang Enzersdorf, resided at Böcklinstrasse 92 in Vienna, and was married to [REDACTED], née

[REDACTED]. According to this record, Fritz Langfelder held the title of *Oberrevident der deutschen Reichsbahn* (an honorary title bestowed upon an employee of the German Rail Lines) and previously served in the military with commendation. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name and city and country of residence of the Claimant's maternal grandmother's cousin match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's street address, occupation, and date of death, 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 Vienna court-certified document indicating the heirs of Fritz Langfelder, an 22 October 1952 certificate of inheritance regarding the heirs and assets of [REDACTED], and the declaration of death of Fritz Langfelder, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Fritz Langfelder, and indicates that his date of birth was 9 February 1882, and that he resided at Odeongasse 9 in Vienna, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Fritz Langfelder appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution.

The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided different dates of birth and death than the dates of birth and death of the Account Owner, as indicated in the Bank records and as indicated by the Claimant, who exactly identified the Claimant's occupation and street address. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 resided in Austria after its incorporation into the German Reich in March 1938 (the "*Anschluss*"). The CRT notes the Account Owner was required to register his assets pursuant to the 1938 Census, and that Fritz Langfelder of Vienna is included in the Yad Vashem Memorial of Israel database.

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 cousin of the Claimant's maternal grandmother, and that the Claimant's grandmother was an heir of the Account Owner's two siblings, who were specifically identified as two of his three heirs. These documents include a document which indicates that the heirs of Fritz Langfelder included his sister [REDACTED] and his brother [REDACTED]; and certificates of inheritance, dated 22 October 1952, which indicate that the heirs of [REDACTED] and of [REDACTED] included [REDACTED] of Vienna. These documents show that the assets were to be distributed to the named heirs, including [REDACTED] of Vienna. The Claimant also submitted the declaration of death of Fritz Langfelder, indicating that he was survived by his siblings [REDACTED] and [REDACTED]; the birth certificate of [REDACTED], indicating that she was the daughter of [REDACTED]; her own birth certificate, indicating that [REDACTED] was the daughter of [REDACTED], née [REDACTED]; and a court document relating to the estate of [REDACTED] (the Claimant's mother), indicating that one of her entitled heirs was her daughter [REDACTED] of Vienna.

The CRT notes that the Bank's records indicate that the Claimant may have other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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 Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that Fritz Langfelder originally held two accounts at the Bank – a custody account containing bonds worth SF 10,000.00, and a demand deposit account, containing cash totaling approximately SF 13,400.00, for total assets of approximately SF 23,400.00.

The Bank's records indicate that the Bank was contacted in October 1950 by a lawyer representing unnamed heirs of Fritz Langfelder. The records show that the Bank petitioned the Swiss Compensation Office on behalf of the heirs for the release of the total assets from the 1945 Freeze, and that all the assets were released from the Freeze. The records indicate that in October 1952, the Bank paid out the 50% share of the Estate (approximately SF 11,700.00, minus fees) to [REDACTED]. The records further show that, as of 1952, three heirs – [REDACTED], [REDACTED], and Dr. Frank Maier, who were entitled to one-ninth, one-

eighteenth, and one-eighteenth, respectively, of both [REDACTED]'s and [REDACTED]'s shares totaling the remaining SF 11,700.00 – had not yet been located. These three heirs together (for both [REDACTED] and [REDACTED]'s shares of SF 5,850.00 each) were entitled to approximately SF 2,600.00 in total (SF 1,300.00 for [REDACTED], and SF 650.00 each for [REDACTED] and Dr. Frank Maier).

Although the Bank's records do not directly show that other heirs were paid out, the CRT determines that the heirs who had been located by 1952 were, following the assets' release from the 1945 Freeze, duly paid out. It is not clear which one of the three heirs who had yet to be located in 1952 were subsequently paid out, if any. However, the Bank's records show that, as of 15 November 1963, only SF 751.50 of the Estate's total assets remained in a demand deposit account at the Bank, and that these assets were considered for registration in the 1962 Survey, but were ultimately not registered. The Bank's records indicate that the account was subsequently closed, but do not indicate the circumstances of that closure or to whom the assets were paid.

With regard to this demand deposit account containing SF 751.50 as 15 November 1963, given that the Bank's records indicate that the Bank was unable, in 1952, to locate three of the heirs to the assets of Fritz Langfelder; and that there is no record of the payment of this amount to any heirs of Fritz Langfelder, or any record of the date or circumstances of closure of the account, the CRT concludes that it is plausible that the remaining SF 751.50 from the total assets originally held by Fritz Langfelder was not paid to the Account Owner's heirs.

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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her maternal grandmother's cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that the assets at issue were not distributed to his Estate.

Amount of the Award

In this case, the Account Owner originally held two accounts with assets totaling approximately SF 23,400.00. The CRT notes that the Bank's records indicate that fees had been deducted from this amount, but that, upon the release of the funds from the 1945 Freeze and payment to the Account Owner's heirs in 1952, an amount, consisting of standardized fees previously paid and/or interest due to the bonds upon their maturity in 1952, had been added back in to arrive at the original account value of SF 23,400.00. The Bank's records indicate that by 15 November 1963, all but SF 751.50 had been distributed to the Account Owner's heirs, and that this remaining amount was contained in one demand deposit account held in the name of the Estate of Fritz Langfelder. 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 account

between 1945 and 1963.³ Consequently, the adjusted balance of the account at issue is SF 1,036.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. In this case, the CRT notes that the Account Owner's assets originally totaled approximately SF 23,400.00, and that the Bank's records clearly demonstrate that all but the assets remaining in the Bank as of 15 November 1963 had been paid to the Account Owner's heirs. Accordingly, the CRT determines that the Bank's records contain plausible evidence sufficient to rebut the Article 29 presumption, and that the 1945 adjusted historic value of SF 1,036.50 shall be used to determine the award amount. 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 12,956.25.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. According to Article 23(2)(c), if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity.

In this case, the Claimant has provided testamentary documents indicating that her maternal grandmother, [REDACTED], was an heir of both [REDACTED] and [REDACTED], who in turn were heirs of Account Owner Fritz Langfelder. The Claimant also provided documents indicating that her mother was [REDACTED], née [REDACTED], who was the daughter of [REDACTED], and also provided a document indicating that she was an heir of her mother [REDACTED]. However, the Claimant did not provide a will indicating that [REDACTED] was the heir of [REDACTED]. Nonetheless, the Claimant did provide documents indicating that [REDACTED] was the daughter of [REDACTED]. Accordingly, the CRT hereby applies the principles of fairness and equity to conclude that the Claimant may be considered an heir, through a broken chain of wills, of Fritz Langfelder.

³ The CRT notes that it is not clear from the Bank's records if the SF 751.50 remaining in the account had been charged fees going back to 1945, to 1952, or if no fees at all had been charged. Given the relatively small amount at issue, and the lack of information in the Bank's records, the CRT calculates the adjusted value of the account by adding fees that possibly accrued on this amount between 1963 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
21 December 2009