

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED1]¹
also acting on behalf of [REDACTED 2], [REDACTED 3],
[REDACTED 4], [REDACTED 5], [REDACTED 6], and [REDACTED 7]
all represented by Steven Harnik

in re Accounts of Charlotte Mandl and Rosa Mandl

Claim Numbers: 501830/BW; 501831/BW

Award Amount: 238,279.75 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Charlotte Mandl (“Account Owner Charlotte Mandl”) and to the published accounts of Rosa Mandl (“Account Owner Rosa Mandl”) (together, the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 Account Owner Charlotte Mandl as her late husband’s great-aunt, Charlotte Hermine Mandl (Mandel), and identifying Account Owner Rosa Mandl as Rosa Mandl (Mandel), formerly Schlegl, as the adopted daughter of Charlotte Mandl. The Claimant stated that Charlotte Mandl was the sister of the paternal grandfather of the Claimant’s late husband [REDACTED].

¹ In separate decisions, the CRT treated the claim of [REDACTED 1] (the “Claimant”) to the accounts of Alfred Mayer, Josef Mandl, Heinrich Mayer, and Adolf Mandl. See *In re Account of Alfred Mayer* (approved on 23 June 2006); *In re Account of Josef Mandl* (approved on 8 August 2006); *In re Account of Heinrich Mayer* (approved on 29 May 2007) and *In re Account of Adolf Mandl* (approved on 29 May 2007).

² 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”), Charlotte Mandl is indicated as having one account, and *Frl.* Rosa Mandl is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank and Austrian Archive records combined indicate the existence of two accounts, both held initially by Charlotte Mandl and subsequently held by Rosa Mandl.

The Claimant indicated that Charlotte Mandl was born on 3 January 1851 in Vienna, Austria, and that Rosa Mandl was born on 13 September 1869 in Vienna. The Claimant explained that neither Rosa Mandl nor Charlotte Mandl was married, and neither had any biological children. According to the Claimant, Charlotte Mandl, who was Jewish, adopted Rosa Mandl, who was also Jewish, on 23 February 1935. The Claimant stated that both Charlotte Mandl and Rosa Mandl resided in Vienna.

According to the Claimant, Charlotte Mandl died on 21 February 1938, and Rosa Mandl was her primary heir. The Claimant stated that Rosa Mandl resided in Vienna at Am Heumarkt 7, and later at Reiserstrasse 38 and Negerlegasse 1/12; she was later deported to a concentration camp in Riga, Latvia, where she perished in 1942.

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

- (1) an adoption certificate, dated 21 February 1935, which indicates that Charlotte Hermine Mandl, who was born on 3 January 1851 in Vienna, adopted Rosa Schlegl, who was born on 13 September 1869 and was Jewish, and that Rosa Schlegl would henceforth use the surname Mandl;
- (2) a death report ("*Todfallsaufnahme*"), dated 5 March 1938 in Vienna, which indicates that Charlotte Mandl was born on 3 January 1851 in Vienna, and died on 21 February 1938, leaving her adopted daughter Rosa Mandl (formerly [REDACTED]) as her heir;
- (3) the will of Charlotte Mandl, dated 8 March 1929, which indicates that her cousin [*sic*] Rosa Schlegl was the sole heir of her estate;
- (4) a birth certificate which indicates that Charlotte Mandel was born in Vienna on 3 January 1851 to [REDACTED] and [REDACTED], both of whom were Jewish;
- (5) a birth certificate which indicates that [REDACTED] was born in Vienna on 26 May 1857 to [REDACTED] and [REDACTED], both of whom were Jewish;
- (6) a marriage certificate which indicates that [REDACTED], the son of [REDACTED] and [REDACTED], née [REDACTED], who was born on 16 July 1909 in Vienna, married the Claimant, [REDACTED], who was born on 19 April 1917, in a Jewish ceremony in Vienna on 31 May 1936;
- (7) a death certificate which indicates that [REDACTED], who was born in Austria on 16 July 1909, was the son of [REDACTED] and [REDACTED], née [REDACTED], and was the husband of [REDACTED], née [REDACTED], and died on 26 May 1994;
- (8) an excerpt from the Austrian State Archive records regarding the assets of Rosa Mandl, which is more fully described below; and
- (9) a printout from the Central Database of Shoah Victims' Names (*Yad Vashem*), which indicates that on 6 February 1942, Rosa Mandel, who was born on 13 September 1869, was transported from Vienna to Riga, Latvia, where she perished.

The Claimant indicated that she was born on 19 April 1917 in Vienna. The Claimant is representing her late husband's cousin's widow, namely [REDACTED 2], née [REDACTED], who was born in June 1930, and her late husband's other cousin's widow, namely [REDACTED 3], née [REDACTED], who was born on 31 March 1922 in the Ohio, the United States. Although the Claimant did not identify the names of her late husband's cousins or their parents,

it is clear from their names that [REDACTED 2] was married to the maternal grandson of [REDACTED] and that [REDACTED 3] was married to the paternal grandson of [REDACTED], and that the late husbands of [REDACTED 2] and [REDACTED 3] were not brothers. The Claimant is also representing the four sons of [REDACTED 2]: [REDACTED 4], [REDACTED 5], [REDACTED 6], and [REDACTED 7].

Information Available in the Bank's Records

The Bank's records consist of a copy of a ledger sheet, a list of account owners with accounts that were frozen during 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 printouts from the Bank's database. According to these records, the Account Owners were Charlotte Mandl from Vienna, Austria, and *Fräulein* (Miss) Rosa Mandl from Vienna, Austria. These records further indicate that Account Owner Rosa Mandl's last known address was Reisnerstrasse 38 in Vienna.

These records indicate that the Account Owners jointly held a custody account, numbered 9050, that was opened on 4 December 1929 and had a balance of 8,242.00 Reichsmark ("RM") as of 27 April 1938; and that Account Owner Rosa Mandl held an account of unknown type, that had a balance of 7,286.00 Swiss Francs ("SF") as of 16 February 1945.

The Bank's records indicate that the custody account numbered 9050 held by the Account Owners was closed unknown to whom on 16 January 1952. The amount in that account on the date of its closure is unknown.

The Bank's records do not show when the account of unknown type held by Account Owner Rosa Mandl was 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

There is no evidence in the Bank's records 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 and correspondence concerning the assets of Rosa Mandl, numbered 37714. According to these records, Rosa Mandl was born on 13 September 1869 and lived at Am Heumarkt 7 and later Reisnerstrasse 38 in Vienna, Austria.

These records mention both a custody account and a demand deposit account at the Bank, both of which were held initially by Charlotte Mandl, and after her death, by Rosa Mandl.

Contained within these records is correspondence between Rosa Mandl's attorney and a woman named *Frau* (Mrs.) Clivio, who was a secretary for the sister of Charlotte Mandl, *Frau* von Escher, who lived in Zürich. According to this correspondence, the attorney for Rosa Mandl wrote to *Frau* Clivio in order to determine the ownership of the custody account to determine whether or not Rosa Mandl should report the account in her 1938 Census declaration. According to the correspondence, Charlotte Mandl's sister living in Zürich had established both of the accounts at the Bank originally in 1929, and intended them as a gift for her sister Charlotte Mandl; Charlotte Mandl's sister, at one point, had an administrative right over those assets. In a letter dated 6 July 1938, *Frau* Clivio informed Rosa Mandl's attorney that when Charlotte Mandl died, ownership of the accounts had passed to Rosa Mandl: "the gifted assets were deposited at the [Bank] in the name of Charlotte Mandl, and following her death, the name on the custody account was changed to Miss Rosa Mandl. The Bank has confirmed to me that they have noted that the assets belong to Rosa Mandl." ("*Die Deponierung der damals geschenkten Werte erfolgte bei der [Bank] in Zürich auf den Namen von Frau Charlotte Mandl und nach deren Ableben wurde das Depot auf Fräulein Rosa Mandl umschrieben. Die [Bank] hat mir bestätigt, dass bei ihr vorgemerkt sei, die Werte gehören Fräulein Rosa Mandl zu Eigentum.*")

Further correspondence with *Frau* Clivio indicates that as of 23 June 1938, Rosa Mandl's assets at the Bank in Zürich consisted of SF 4,390.90 in a demand deposit account (*Depositenkonto*), as well as a custody account which contained the following securities, which Rosa Mandl reported in her 1938 Census declaration:

- 4% *Oblig. Einwohnergemeinde Thun 1932* bonds with a face value of SF 10,000.00; and
- 5% *Oblig. North American 1931/61* bonds with a face value of 1,000.00 United States Dollars ("US \$")

Included in *Frau* Clivio's correspondence with Rosa Mandl's attorney were valuations for the securities held in the custody account; she indicated that those securities were trading on 27 April 1938 at 102.25% and 101.75%, respectively. These records indicate that Rosa Mandl held additional securities; however, there is no indication that they were held at a Swiss bank.

These records also contain subsequent correspondence from Rosa Mandl to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt."), dated 19 February 1941, stating that her previously reported assets had been reduced, such that as of that date the total value of her assets was RM 23,214.00. That same document indicates that the 4% *Oblig. Einwohnergemeinde Thun 1932* bonds contained in her custody account at the Bank had been sold, but that the 5% *Oblig. North American 1931/61* bonds remained in the custody account; and that as of 19 February 1941, the value of her demand deposit account held at the Bank was RM 5,607.00, or SF 9,710.95.

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 Owners

The Claimant has plausibly identified the Account Owners. The Claimant's late husband's great-aunt's name and city and country of residence and her late husband's great-aunt's adopted daughter's name and city and country of residence match the published names and city and country of residence of the Account Owners. The Claimant identified the Account Owners' relationship and Account Owner Rosa Mandl's address, which match unpublished information about the Account Owners contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including an adoption certificate, which indicates that Charlotte Mandl adopted Rosa Schlegl; the death report and will of Charlotte Mandl, naming Rosa Schlegl as the heir of her estate; as well as Charlotte Mandl's birth certificate, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same town recorded in the Bank's records as the names and city of residence of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Rosa Mandl, and indicates that her date of birth was 13 September 1869 and place of birth was Vienna, Austria, which matches the information about Account Owner Rosa Mandl 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 names Rosa Mandl and Charlotte Mandl appear only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence or maiden name than the country of residence or former name of Account Owner Rosa Mandl.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Rosa Mandl was a Victim of Nazi Persecution. The Claimant stated that Account Owner Rosa Mandl was Jewish, and that she was deported to a concentration camp in Riga, where she perished in 1942. As noted above, a person named Rosa Mandl was included in the CRT's database of victims.

The Claimant also indicated that Account Owner Charlotte Mandl was Jewish and that she died on 21 February 1938, prior to the annexation of Austria into the Reich in March 1938 (the “*Anschluss*”); however, as indicated above, the Claimant indicated that Account Owner Charlotte Mandl’s adopted daughter and sole heir, Account Owner Rosa Mandl, was a Victim of Nazi Persecution.

The Claimant’s Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant’s late husband’s great-aunt and that relative’s adopted daughter. These documents include: an adoption certificate, which indicates that Charlotte Mandl adopted Rosa Schlegl; a birth certificate which indicates that Charlotte Mandel was born in Vienna to [REDACTED] and [REDACTED]; a birth certificate which indicates that [REDACTED] was born in Vienna to [REDACTED] and [REDACTED]; a marriage certificate which indicates that [REDACTED], was the son of [REDACTED] and [REDACTED], née [REDACTED], was born on 16 July 1909 in Vienna, and married the Claimant, on 31 May 1936 in Vienna. The Claimant also submitted a family tree indicating that [REDACTED] was the son of [REDACTED].

The CRT notes that the Claimant indicated that she may have other surviving relatives, but that because they are not represented in the Claimant’s claims, the CRT will not treat their potential entitlement to the Account Owners’ accounts in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank’s records; and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of Account Owner Rosa Mandl’s adoption certificate. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess, and which also provides independent verification that the Claimant’s relatives bore the same family name as the Account Owner and that they resided in Vienna. Finally, 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 she has asserted in her Claim Forms.

The Issue of Who Received the Proceeds

Given that the Bank’s records indicate that the joint owners of custody account 9050 at the Bank were Account Owner Charlotte Mandl and Account Owner Rosa Mandl, and that account 9050 was opened in 1929; and that the Austrian Archive records indicate that Account Owner Charlotte Mandl held a custody account at the Bank that was established in 1929 and transferred to Account Owner Rosa Mandl’s name upon Account Owner Charlotte Mandl’s death in February 1938, the CRT concludes that custody account 9050 is the custody account referred to in the Austrian Archive records, and the same account that previously was held in Account Owner Charlotte Mandl’s name, and then transferred upon her death to Account Owner Rosa Mandl’s name. The CRT also concludes that the account of unknown type held by Rosa Mandl

and indicated in the Bank's records is in fact the demand deposit account referred to in the Austrian Archive records, and is the same account that was also previously held in Account Owner Charlotte Mandl's name, and then transferred upon her death to Account Owner Rosa Mandl's name.

The Bank's records also indicate that Account Owner Rosa Mandl was included on a list of account owners whose accounts were frozen during the 1945 Freeze.

The Bank's records further indicate that the custody account numbered 9050 was closed unknown to whom on 16 January 1952. These records do not indicate the final disposition of the demand deposit account.

According to the correspondence included with Account Owner Rosa Mandl's 1938 Census declaration, her adopted mother had a sister living in Zürich, who at one point had an administrative right over the assets in the custody account. However, as the correspondence between *Frau* Clivio and the attorney for Account Owner Rosa Mandl indicates, at the time of her adopted mother's death, Account Owner Rosa Mandl became the owner of the assets in the custody account. The fact that the assets in the account were reported in Account Owner Rosa Mandl's 1938 Census declaration, that Account Owner Rosa Mandl was included on a list of account owners whose assets were frozen in the 1945 Freeze, and the indication in the Bank's records that the custody account was closed unknown to whom in 1952, further indicate that Account Owner Rosa Mandl's adopted mother's sister did not maintain an administrative right over the custody account following Account Owner Charlotte Mandl's death.

Finally, the CRT notes that the facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the demand deposit account ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that Account Owner Rosa Mandl lived in Austria until she was deported, and therefore could not have repatriated the accounts without losing ultimate control over their proceeds; and given the application of Presumptions (a), (d), (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 proceeds of both accounts were not paid to the Account Owners or their heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant, [REDACTED 2], and [REDACTED 3]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were her late husband's great aunt and that relative's adopted daughter, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither Account Owner Rosa Mandl nor her heirs received the proceeds of the claimed accounts.

The CRT notes that the Claimant, [REDACTED 2], and [REDACTED 3] are more entitled to the account than [REDACTED 2]'s four sons, whom the Claimant also represents.

Amount of the Award

As indicated above, the CRT considers the custody account numbered 9050 which is reported in the Bank's records, and the custody account reported by Account Owner Rosa Mandl in her 1938 Census declaration, to be the same account; and considers the account of unknown type reported in the Bank's records, to be the same account as the demand deposit account reported by Account Owner Rosa Mandl in her 1938 Census declaration. Accordingly, the CRT has determined that after the *Anschluss* and Account Owner Charlotte Mandl's death, Account Owner Rosa Mandl held one custody account and one demand deposit account at the Bank.

The CRT notes that correspondence from Rosa Mandl to the VVSt. on 19 February 1941 which is contained within the Austrian State Archives records indicates that Account Owner Rosa Mandl had sold the *4% Oblig. Einwohnergemeinde Thun 1932* bonds that had been held in her custody account, but that the value of her demand deposit account held at the Bank had increased from SF 4,390.90 in June 1938 to SF 9,710.95 by February 1941.

Accordingly, the CRT determines that the demand deposit account had a balance of SF 4,390.90 as of 27 April 1938 and that the custody account still held both of the sets of securities on that date.

Regarding the custody account, according to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the market value of bonds shall be awarded if that value was above the face value on the date the account owner is deemed to have lost control over the account. According to the information contained in Account Owner Rosa Mandl's 1938 Census declaration, the following securities were held in the custody account numbered 9050:

- *4% Oblig. Einwohnergemeinde Thun 1932* bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 102.25% in April 1938, for a total market value of SF 10,225.00;³ and
- *5% Oblig. North American 1931/61* bonds with a face value of US \$1,000.00. These bonds were of good quality and were trading at 101.75% in April 1938, for a total market value of US \$1,017.50, which was equivalent to SF 4,446.48.^{4,5}

Therefore, the Austrian State Archive records indicate that as of 27 April 1938, the value of the custody account was SF 14,671.48, and the value of the demand deposit account was SF 4,390.90, for a total combined historic value for both accounts of SF 19,062.38. The current value of the amount of the award is determined by multiplying the historic value by a factor of

³ The valuation for this security comes from the 1938 Census declaration of Account Owner Rosa Mandl.

⁴ *Id.*

⁵ The CRT uses official exchange rates when making currency conversions.

12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 238,279.75.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing the [REDACTED 2], née [REDACTED], who is the widow of [REDACTED]'s maternal grandson, and [REDACTED 3], née [REDACTED], who is the widow of [REDACTED]'s paternal grandson. As the Claimant, [REDACTED 2], and [REDACTED 3] are all related to the Account Owner by marriage, the CRT determines that it is fair and equitable to divide the award amount among them equally. Accordingly, the Claimant, [REDACTED 2], and [REDACTED 3] are each entitled to a one-third share of the total award amount.

As noted above, [REDACTED 4], [REDACTED 5], [REDACTED 6], and [REDACTED 7], as sons of [REDACTED 2], are one generation further removed from the Account Owner than their mother, [REDACTED 2], and are therefore not entitled to share in the 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 claims 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
18 December 2008