

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Accounts of Emil Schreier

Claim Number: 501795/NB

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Dr. [REDACTED] (the “Claimant”) to the published accounts of Emil Schreier (the “Account Owner”), over one of which Regina Schreier-Tiktin (the “Power of Attorney Holder”) held power of attorney at the Zurich branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandfather, Emil Schreier, who was born on 26 November 1864 in Vienna, Austria, and identifying the Power of Attorney Holder as his maternal grandmother, Regina Schreier, née Tiktin, who was born on 23 December 1867, and was married to Emil Schreier. The Claimant stated that his grandfather was a banker and resided with his family at Sechsschimmelgasse 12 in Vienna. The Claimant stated that his grandfather had two children, [REDACTED] (the Claimant’s mother), who married [REDACTED]; and [REDACTED] (the Claimant’s uncle). The Claimant indicated that both [REDACTED] and [REDACTED] have passed away. The Claimant further indicated that his grandfather and grandmother, who were Jewish, were deported to Theresienstadt concentration camp, where they perished in 1941.

In support of his claim, the Claimant submitted copies of: (1) his own birth certificate, which indicates that [REDACTED] was born on 3 March 1936 in Vienna, that he is Jewish, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) his mother’s birth certificate, which indicates that [REDACTED] was born on 28 February 1900 in Vienna, that she was Jewish, and that her parents were Emil Schreier and Regina Schreier, née Tiktin, who resided at Sechsschimmelgasse 12 in Vienna; (3) his mother’s death certificate, which indicates that [REDACTED] died on 7 February 2001; (4) a Yad Vashem page of testimony, submitted in

1999 by [REDACTED], née [REDACTED], which indicates that Emil Schreier was a banker working in Vienna, and that he was later deported to Theresienstadt, where he perished in 1941; and (5) the Claimant's family tree, which indicates that Emil Schreier was the Claimant's maternal grandfather, and that [REDACTED] was the Claimant's maternal uncle.

The Claimant indicated that he was born on 3 March 1936 in Vienna, Austria.

Information Available in the Banks' Records

The Bank's records consist of a customer card and printouts from the Bank's database. According to these records, the Account Owner was Emil Schreier, who resided at Sechsschimmelgasse 12 in Vienna, Austria, and the Power of Attorney Holder was *Frau* (Mrs.) Regina Schreier-Tiktin.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of an account opening contract, a power of attorney form dated 31 March 1928, as well as printouts from the Bank's database.

The Bank's records indicate that the Account Owner held two accounts: one custody account, numbered 25803, and one demand deposit account. These records indicate that the Account Owner granted power of attorney over custody account numbered 25803 to *Frau* Regina Schreier-Tiktin on 31 March 1928, and that she also resided at Sechsschimmelgasse 12 in Vienna as of that date.

According to the Bank's records, Emil Schreier opened custody account 25803 on 22 March 1928, at which time he transferred 3½% *Schweiz Bundesbahnen Oblig 1910* bonds with a face value of 1,000.00 Swiss Francs ("SF"). These records further indicate that on 1 April 1938, the custody account, which held a balance of SF 1,000.00, was transferred to the *Oesterreichische Creditanstalt-Wiener Bankverein*, at which time the account was closed. The records show that the demand deposit account was closed no later than 31 March 1938. The amount in the demand deposit account on the date of its closure is unknown.

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

Information Available from the Austrian State Archive

Emil Schreier

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 Schreier, numbered 27847. These records indicate that Emil Schreier was born on 26 November 1864, that he lived at Sechsschimmelgasse 12 in Vienna, that he was married to Regina Schreier, née Tiktin, and that he was retired by 27 April 1938. According to these documents, Emil Schreier owned various valuables and jewelry, stocks and bonds worth 13,716.08 Reichsmark (“RM”) and bank accounts containing RM 25,741.19.

The records also contain a note, dated 17 October 1958, filed pursuant to articles 25 and 26 of the Austrian State Treaty of 1955, indicating that Dr. [REDACTED] applied for compensation regarding Emil Schreier’s aryanized property.

[REDACTED]

In the records of the Austrian State Archive, there are also documents concerning the assets of [REDACTED], numbered 47291. These documents indicate that Dr. [REDACTED] was born on 4 April 1897, that he was married to [REDACTED], née [REDACTED], that he lived at Schubertring 9 in Vienna; that he was an attorney whose practice was located at Schellinggasse 6 in Vienna; and that he previously was an adjunct professor at the university in Vienna. The records contain a note, dated 12 February 1940, from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt.”), indicating that the 1938 Census declarations submitted by Dr. [REDACTED] and by Emil Schreier, who was residing at Sechsschimmelgasse 12 in Vienna, were being combined for administrative purposes. According to these records, Dr. [REDACTED] owned various valuables, furniture and books, capital assets worth RM 2,753.48 and bank accounts containing RM 2,933.33.

These documents also contain a letter written by Dr. [REDACTED], while he was interned in the Dachau concentration camp, giving power of attorney to attorney Dr. Rudolf Löbl, authorizing him to complete the 1938 Census on his behalf. These documents further indicate that Dr. [REDACTED] was assessed flight tax (*Reichsfluchtsteuer*) of RM 1,280.00.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant’s grandparents’ names, as well as the Claimant’s grandfather’s city and country of residence match the published names of the Account Owner and the Power of Attorney Holder, as well as the city and country of residence of the Account Owner. The Claimant identified the street address of the Account Owner and the Power of Attorney Holder, which matches unpublished information about the Account Owner contained in the Bank’s records.

In support of his claim, the Claimant submitted documents, including his mother’s birth certificate, which provides independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names and resided at the same

street address recorded in the Bank's records as the name and street address of the Account Owner and the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Emil Schreier, and indicates that his date of birth was 26 November 1864, that he resided in Vienna, Austria during the Second World War, and that he was deported to Theresienstadt, which matches the information about the Account Owner provided by the Claimant. This database also includes a page of testimony submitted by the Claimant's mother, [REDACTED], née [REDACTED], in 1999, which indicates that Emil Schreier was born in 1867, in Vienna, that he was married to Regina Schreier, née Tiktin, that the couple resided in Vienna where Emil Schreier worked as a banker, and that he was deported to Theresienstadt where he perished in 1941. This 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. Although the CRT notes that the date of birth indicated in the Yad Vashem's page of testimony provided by the Claimant's mother is different from the date of birth provided by the Claimant in the Claim Form, the CRT has determined that this discrepancy does not adversely affect the identification of the Account Owner in light of the remaining detailed information which matches the information about the Account Owner provided by the Claimant.

The CRT finally notes that there are no other claims to these accounts.

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, that he resided in Austria after its incorporation into the German Reich in March 1938 (the "*Anschluss*"), and that he was deported to Theresienstadt, where he perished in 1941.

As noted above, a person named Emil Schreier was included in the CRT's database of victims. Furthermore, the CRT notes that the Account Owner was forced to declare all of his assets to the Nazi authorities in the 1938 Census.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was the Claimant's grandfather. These documents include the Claimant's birth certificate, indicating that his mother was [REDACTED], née [REDACTED], and the Claimant's mother's birth certificate, indicating that [REDACTED]'s parents were Emil Schreier and Regina Schreier, née Tiktin.

There is no information to indicate that the Account Owner had other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the Account Owner's custody account was transferred to the *Oesterreichische Creditanstalt-Wiener Bankverein* on 1 April 1938 and subsequently closed, and that the demand deposit account was closed no later than 31 March 1938.

Given that the Bank's records indicate that the Account Owner's custody account was transferred to the *Oesterreichische Creditanstalt-Wiener Bankverein* on 1 April 1938, that his demand deposit account was closed by 31 March 1938, following the *Anschluss*; that there is no record of the payment of the Account Owner's accounts to him or to the Power of Attorney Holder; that the Account Owner's 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 (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his maternal grandfather, and this relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, 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 Owner held one demand deposit account and one custody account.

With respect to the demand deposit account, the Bank's records do not indicate the value of this account on the date of its closure. 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 instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was SF 2,140.00

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 face value of bonds not in default shall be awarded if the market value was below the face value on the date the account owner is deemed to have lost control over the account. The CRT presumed that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity

to avoid a capital loss. 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 Bank's records, the Account Owner held *3½% Schweiz Bundesbahnen Oblig 1910* bonds with a face value of SF 1,000.00. These bonds were of good quality, which were trading at 104.1% when transferred on 1 April 1938. Therefore these bonds shall be valued at their total market value of SF 1,041.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00.

Therefore, the total 1945 value of the accounts at issue is SF 15,140.00. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

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
26 November 2008