

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Dr. Walter Friedrich

in re Accounts of Fritz Tintner and Margit Tintner

Claim Number: 501737/HB¹

Award Amount: 1,727,167.88 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Fritz Tintner and Margit Tintner, née Pollak. This award is to the published accounts of Margit Tintner, née Pollak (the “Account Owner”), over which Fritz Tintner (the “Power of Attorney Holder”) held power of attorney, 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 the Account Owner as his maternal great-aunt, Margit Tintner, née Pollak, who was born on 22 February 1873, and the Power of Attorney Holder as his maternal great-uncle, Dr. Fritz (Friedrich) Tintner, who was born on 1 May 1873 in Brünn (Brno), Czechoslovakia (today the Czech Republic). The Claimant indicated that his great-aunt and great-uncle were married on 12 August 1919 in Baden, Austria.

According to the Claimant, his great-uncle, who was Jewish and was a military physician (*Generalstabsarzt*), resided with his wife at Neutorgasse 15 in Vienna, Austria, and held the titles of “Dr.” and *Hofrat*. The Claimant further indicated that his great-aunt, who was also

¹ [REDACTED] (the “Claimant”) submitted one additional claim, which is registered under the Claim Number 501506. In a separate decision, the CRT awarded the account of Walter Brünner to the Claimant. See *In re Account of Walter Brünner* (approved on 11 April 2005).

² The CRT notes that on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the ICEP List), Margit Tintner is indicated as having two accounts, and Fritz Tintner is listed as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence that Margit Tintner owned four accounts, and that two of the accounts were held in Margit Tintner’s name for the benefit of the Power of Attorney Holder, Fritz Tintner.

Jewish, also resided at Seegasse 9 in Vienna I. The Claimant indicated that his great-uncle died on 13 January 1943 in Vienna, and that his great-aunt died in Sarvar, Hungary in 1944.

In support of his claim, the Claimant submitted the copies of the documents listed below.

- 1) His great-uncle's last will dated 23 September 1938, indicating Fritz Tintner was married to Margit Tintner, that he had a brother named [REDACTED], that one of his heirs was his sister [REDACTED], and that he held accounts at the *Länderbank Wien* in his wife's name.³
- 2) An amendment to his great-uncle's last will dated 1 September 1939, indicating that Fritz Tintner changed the allocation of his heirs' shares of his estate.
- 3) His great-uncle's death report, dated 15 February 1943, indicating that Dr. Fritz Tintner was a military physician, that he was born on 30 April 1873 in Brno, that he was Jewish, that he resided at Neutorgasse 15 in Vienna, and that he died on 13 January 1943 in Vienna. The death report indicates that Fritz Tintner's wife was Margit Sara Tintner, née Pollak, who was Jewish and resided at Seegasse 9 in Vienna. The death report further indicates that the names of his relatives and heirs, including his sister [REDACTED], née [REDACTED], and his relative [REDACTED], née [REDACTED], of Boston, Massachusetts, the United States.
- 4) His own birth certificate, indicating that [REDACTED] was born on 1 July 1921 in Vienna and that his mother was [REDACTED], née [REDACTED], who was born on 28 February 1875 in Vienna and whose parents were [REDACTED] and [REDACTED], née [REDACTED].
- 5) His own certificate of naturalization, indicating that [REDACTED] was originally Austrian and that he became an American citizen on 9 June 1944.
- 6) His mother's last will, indicating that [REDACTED], née [REDACTED], named her son, [REDACTED], as the executor of her estate.
- 7) Copies of records from the Austrian State Archive (Archive of the Republic, Finance) relating to his great-uncle, Fritz Tintner, and his maternal grandmother, [REDACTED], the contents of which are described below.

The Claimant indicated that he was born on 1 July 1921 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a customer card, two power of attorney forms, a deposit receipt, an instruction form, a spousal consent form, correspondence with the Bank, two lists of custody accounts belonging to the Bank's Austrian clients, correspondence between the Account Owner's niece and the Bank in 1960, internal memoranda of the Bank, and printouts from the Bank's database.

According to these records, the Account Owner was Margit Tintner, née Pollak, who was married to Fritz Tintner and resided at Neutorgasse 15 in Vienna, Austria. These records further

³ The CRT notes that the will lists several named beneficiaries, many of whom were relatives of [REDACTED]. The CRT notes that no claims were filed to the names of these beneficiaries.

indicate that the Power of Attorney Holder over some of these accounts was Fritz Tintner, who held the titles of “Dr.” and *Hofrat*. The CRT notes that the Power of Attorney Holder’s name also appears in several documents with the notation “*Rubr.*” or “*Rubrik,*” which indicates that the Power of Attorney Holder was the beneficial owner of some of the accounts, which were held in the name of the Account Owner.

According to the Bank’s records, the Account Owner owned two custody accounts, numbered 31446 and 37634, respectively, and two demand deposit accounts. With regard to custody account numbered 31446, the Bank’s records indicate that the account contained the following securities as of 30 December 1930:

- 7% *Böhmische Glas Obl.* bonds with a nominal value of US \$2,000.00.
- 6.5% *Mailänder Anleihe* bonds with a nominal value of US \$3,000.00.
- 8% *Grazer Stadt Anleihe.* bonds with a nominal value of US \$1,500.00.
- 7.5% *Bulgaria* bonds with a nominal value of US \$1,000.00.
- 7.5% *Ungar. Städte obl.* bonds with a nominal value of US\$1,000.00.
- 8% *Jugoslavia* bonds with a nominal value of US \$3,000.00.
- 4% *Oest. Gold. Rente. C. Com. St.* bonds with a nominal value of 20,000.00 Dutch Florins (“Fl”).
- 8% *Breslauer Schätze v. 1933* bonds with a nominal value of 10,000.00 Reichsmark (“RM”).
- 8% *Berliner Schätze 1933* bonds with a nominal value of RM 10,000.00.
- 7% *Berliner Verk. Anl. 1934* bonds with a nominal value of RM 10,000.00.
- 4% *konv. Rumänen* bonds with a nominal value of French Francs (“Frs”) 250,000.00.
- 6% *Deutsche Reichsschuldbuchford. 1940* bonds with a nominal value of RM 10,000.00.
- 8% *Lemberger Bodencredit Verein Obl* bonds with a nominal value of US \$1,000.00.
- 6% *Holland America Line Obl.* bonds with a nominal value of US \$1,200.00.
- 6.5% *Ungar. Funding 1924* bonds with a nominal value of Frs 30,000.00.

The Bank’s records further indicate that the value of this account was SF 67,000.00 as of 28 April 1938, when it was transferred in part to the *Länderbank* in Vienna, and in part to the *Deutsche Bank* in Berlin, Germany.

With respect to custody account numbered 37634, the CRT notes that the value of this account was SF 69,000.00 as of 28 April 1938, when it was transferred to the *Länderbank* in Vienna. The Bank’s records indicate that the Power of Attorney Holder was listed as a beneficial owner for this account.

According to an internal bank memorandum dated 6 May 1960, the Account Owner also owned two demand deposit accounts held in United States Dollars. The records indicate that one of these demand deposit accounts was closed on 2 May 1938, when the Bank transferred the amount of US \$7.65 to the *Zentral Europ. Länderbank* in Vienna. The records further indicate that the Power of Attorney Holder was listed as a beneficial owner on the second demand deposit account, which was booked out on 28 October 1950 with a balance of US \$8.50.

Moreover, the Bank's records indicate that the Account Owner's niece, [REDACTED], contacted the Bank on 2 May 1960 to obtain information regarding her aunt's accounts, claiming that her aunt held custody accounts or a safe deposit box at the Bank. There is no evidence in the Bank's record 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

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 Margit Tintner, numbered 16917. These records indicate that Margit Tintner was born on 22 February 1873, resided at Neuthorstrasse 15 in Vienna I, that she was married to *Hofrat* Dr. Fritz Tintner, who was a retired military physician, and that she was Jewish. According to these records, as of 12 November 1938, Margit Tintner owned assets totaling RM 387,306.66, including real estate with value of RM 274,000.00, securities with a value of RM 107,527.66, cash in the amount of RM 1,239.00, and other property with a value of RM 4,540.00. These records further indicate that Margit Tintner was assessed flight tax (*Reichsfluchtsteuer*) of RM 94,976.21. These records make no mention of assets held in a Swiss bank account.

In support of his claim, the Claimant submitted records, which are incomplete and numbered 16843, from the Austrian State Archive regarding the Claimant's great-uncle. These records indicate that Dr. Fritz Tintner was born on 1 May 1873, was married to Margit Tintner, née Pollak, was Jewish, resided at Neutorgasse 15 in Vienna I. These records further indicate that Fritz Tintner owned securities and bank accounts with a value of RM 20,885.80, personal items valued at RM 781.00, other valuables with a value of RM 1,000.00, and real estate. These records make no mention of assets held in a Swiss bank account.

The Claimant also submitted his grandmother's Austrian State Archive's records numbered 8235, which indicate that [REDACTED], née [REDACTED], was born on 24 February 1867, was retired, was Jewish, had been widowed since 20 July 1912, owned real estate with a value of RM 900.00, received a small pension, and owned personal items valued at approximately RM 1,000.00. 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 Claimant's great-aunt's name, and country of residence match the published name, and city and country of residence of the Account Owner. The Claimant identified the Account Owner's relationship to the Power of Attorney Holder, as well as the Power of Attorney Holder's profession and title, which match unpublished information about the Power of Attorney Holder contained in the Bank's records.

The Claimant also identified the street addresses of the Account Owner and the Power of Attorney Holder, which match information about the Account Owner and the Power of Attorney Holder contained in the Bank's records.⁴

In support of his claim, the Claimant submitted documents, including: (1) his great-uncle's last will, indicating that Dr. Fritz Tintner was married to Margit Tintner; (2) his great-uncle's death report, indicating that Dr. Fritz Tintner was a Lieutenant General, that he was Jewish, that he resided at Neutorgasse 15 in Vienna, and that he was married to Margit Sara Tintner, née Pollak, who was Jewish and who resided at Seegasse 9 in Vienna; and (3) a copy of his great-uncle's Austrian State Archive's records. These documents provide independent verification that the persons who are claimed to be the Account Owner and Power of Attorney Holder had the same names and relationship and resided in the same town and at the same address recorded in the Bank's records as the names, relationship, city of residence, and street address of the Account Owners and the Power of Attorney Holder. Furthermore, these documents provide independent verification that the person who is claimed to be the Power of Attorney Holder had the same professional titles recorded in the Bank's record as the professional titles of the Power of Attorney Holder.

The CRT notes that the other claims to these accounts were disconfirmed because these claimants provided a different country of residence, spouse's name, or maiden name, than the country of residence, spouse's name, and maiden name of 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, that she resided in Nazi-controlled Austria, where her husband, the Power of Attorney Holder, died on 13 January 1943, and that she perished in Sarvar in 1944.

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 great-aunt and that the Power of Attorney Holder was the Claimant's great-uncle. These documents include: (1) a copy of his great-uncle's Austrian State Archive's record, indicating that Fritz Tintner was married to Margit Tintner, née Pollak; (2) a copy of his maternal grandmother's Austrian State Archive's record, indicating that [REDACTED]'s maiden name was [REDACTED] and that she was Jewish; (3) his great-uncle's death report, indicating that [REDACTED], née [REDACTED], was Fritz Tintner's sister; (4) his great-uncle's last will and will amendment, indicating that the Dr. Fritz Tintner was married to Margit Tintner, and that [REDACTED] was his niece; (5) his own birth certificate, indicating that [REDACTED], née

⁴ The CRT notes that that the Austrian State Archive records of Margit Tintner indicate that she resided at Neuthorstrasse 15, whereas the Austrian State Archive records of [REDACTED] indicate that he resided at Neutorgasse 15, which corresponds to information provided by the Claimant. Given the similarity of the names of the two streets and that the house numbers are identical, the CRT determines that this discrepancy does not adversely affect the Claimant's identification of the Account Owner.

[REDACTED] is the [REDACTED]’s mother, and that her parents were [REDACTED] and [REDACTED], née [REDACTED]; (6) his own certificate of naturalization, indicating that [REDACTED] was originally Austrian; and (7) his mother’s last will, indicating that [REDACTED] is the son of [REDACTED], née [REDACTED].

The Issue of Who Received the Proceeds

With respect to the two custody accounts and the demand deposit account held by the Account Owner, the Bank’s records indicate that these accounts were paid to Austrian and German banks after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). Given that the Account Owner lived in Nazi-controlled Austria until she perished in Sarvar in 1944; that there is no record of the payment of the Account Owner’s accounts to her; that the Account Owner and her heirs would not have been able to obtain information about her accounts after the Second World War from the Bank 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.

With respect to demand deposit account on which the Power of Attorney Holder was listed as a *Rubrik*, the Bank’s records indicate that the account was booked out by the Bank in 1950.

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 the Claimant’s great-aunt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

The Bank’s records indicate that the Account Owner held two custody accounts and two demand deposit accounts. With respect to custody account numbered 31446, the Bank’s records contain a list of the securities in the account as of 30 December 1930, over seven full years prior to the *Anschluss*. The CRT is unable to determine whether the account contained the same securities as of April 1938 at the time it was transferred to the *Länderbank* in Vienna and the *Deutsche Bank* in Berlin, and therefore relies on the value of the account reported by the Bank as of the date of the transfer, SF 67,000.00. With respect to custody account numbered 37634, the Bank’s records indicate that the value of the account as of 22 April 1938 was SF 69,000.00. Thus, the combined historical value of these custody accounts is SF 136,000.00. The current value of the sum of these amounts is determined by multiplying the historic value by a factor of 12.5, in accordance

with Article 31(1) of the Rules, to produce an award amount for the two custody accounts of SF 1,700,000.00.

With respect to the demand deposit account on which the Power of Attorney Holder is listed as the beneficial owner, the Bank's records indicate that the value of the account as of 29 October 1950 was US \$8.50 (which was equivalent to SF 36.72).⁵ In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 90.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1950. Consequently, the adjusted balance of the account at issue is SF 126.72. With respect to the Account Owner's other demand deposit account, the Bank's records indicate that its value as of 2 May 1938 was US \$7.65 (which was equivalent to SF 33.43). 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, however, the value of the account's contents at the time of its transfer and of its simultaneous closure is recorded in the Bank's records, which are the same records upon which the CRT relied to value the custody accounts referred to above. Therefore, the value of this account is determined to be SF 33.43. The total value for the two demand deposit accounts is therefore determined to be SF 2,173.43. 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 an award amount for these two accounts of SF 27,167.88.

Consequently, the total combined value of the four accounts at issue is SF 1,727,167.88.

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
27 February 2007

⁵ The CRT uses official exchange rates to convert foreign currencies into Swiss Francs.