

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED]

**in re Accounts of Wilhelm Unger, of Greta Unger, Adolf Unger, Ludwig Unger, and
*Adolf Unger & Sohn***

Claim Numbers: 202927/MG; 202928/MG; 202929/MG; 202930/MG

Award Amount: 114,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Wilhelm Unger (“Account Owner Wilhelm Unger”), Greta Unger (“Account Owner Greta Unger”), Adolf Unger (“Account Owner Adolf Unger”) and Ludwig Unger (“Account Owner Ludwig Unger”) (together the “Account Owners”) at the Zurich branch of the [REDACTED I] (“Bank I”), and to the account of *Adolf Unger & Sohn* (“Account Owner *Adolf Unger & Sohn*”) at the Zurich branch of the [REDACTED II] (“Bank II”).

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

Information Provided by the Claimant

The Claimant submitted four Claim Forms identifying Account Owner Wilhelm Unger as her father, Account Owner Greta Unger as her mother, Account Owner Adolf Unger as her paternal grandfather, Account Owner Ludwig Unger as her paternal great-uncle, and Account Owner *Adolf Unger & Sohn* as a clothing business owned by her father and grandfather.

Account Owner Wilhelm Unger and Account Owner Greta Unger

The Claimant stated that her father, Wilhelm Unger, was born on 10 October 1892 in Vienna, Austria, and was married to his cousin, Greta Unger, the Claimant’s mother, on 8 December 1918 in Vienna. The Claimant further stated that her mother was born on 19 October 1896 in Vienna. The Claimant indicated that her parents had two children: the Claimant, and her sister, [REDACTED], née [REDACTED]. The Claimant stated that her parents, who were Jewish, resided at Rochusgasse 2 in Vienna and that her father owned, together with his father, a clothing business, *Adolf Unger & Sohn*, which was located at Landstrasser Hauptstrasse 60 in Vienna, and which had business connections

with Switzerland and the Netherlands. The Claimant further stated that her mother occasionally performed office work for the family business. According to the Claimant, after the *Anschluss* (Annexation of Austria) in March 1938, the Nazis persecuted her parents and confiscated their business and all of their other assets. The Claimant explained that as a result of this persecution, her parents fled to London, England in 1938, where they stayed until 1940 when they emigrated to the United States, where they settled. The Claimant indicated that her mother died on 3 November 1983 and that her father died on 30 August 1995, both in the United States.

Account Owner Adolf Unger

The Claimant stated that her grandfather, Adolf Unger, was born on 6 July 1863 in Hungary, and was married to [REDACTED] ([REDACTED]) [REDACTED] on 1 September 1890 in Vienna, with whom he had two children: Wilhelm Unger, the Claimant's father, and [REDACTED]. The Claimant stated that her grandfather, who was Jewish, resided at Rochusgasse 2 in Vienna and that he owned *Adolf Unger & Sohn*, together with his son Wilhelm, the Claimant's father. The Claimant explained that after the Nazis evicted her grandfather from his apartment in 1938, he managed to flee Vienna to the United Kingdom, where he stayed from 1938 until 1943. The Claimant further explained that in 1943, while en route to the United States, the ship her grandfather was on was attacked by a Nazi warship in the mid-Atlantic, and that her grandfather subsequently drowned.

Account Owner Ludwig Unger

The Claimant stated that her great-uncle, Ludwig Unger, was the brother of her grandfather, Adolf Unger. The Claimant indicated that her great-uncle was born on 12 February 1870 in Hungary, that he never married, and that he did not have any children. According to the Claimant, her great-uncle, who was Jewish, was employed by his brother at *Adolf Unger & Sohn* until 1938. The Claimant stated that her great-uncle resided at Ferdinandstrasse 25 in Vienna until the Nazis deported him to Theresienstadt, where he perished on 21 September 1942.

Account Owner Adolf Unger & Sohn

The Claimant stated that *Adolf Unger & Sohn* was a clothing company, which was owned by her father and grandfather and located at Landstrasser Hauptstrasse 60 in Vienna. The Claimant further stated that the company was confiscated by the Nazis after the *Anschluss* in March 1938.

The Claimant indicated that she and her sister, [REDACTED], are the only surviving heirs of the Account Owners. In support of her claim, the Claimant submitted a copy of her parents' marriage certificate, issued by the Jewish community in Vienna, identifying them as Wilhelm Unger, son of Adolf Unger, and Grete Unger, daughter of [REDACTED]; a letter written on the letterhead of *Adolf Unger & Sohn*, indicating business bank accounts at the [REDACTED] in Vienna III, at the [REDACTED II] in

Zurich, Switzerland, and at the [REDACTED] in Amsterdam, the Netherlands; copies of her father's business cards, indicating that he owned *Adolf Unger & Sohn*; a copy of two pictures showing her father and her grandfather in front *Adolf Unger & Sohn* in Vienna; an extract from her grandfather's memoirs; an excerpt describing the foreign business connections of *Adolf Unger & Sohn*; a letter, dated 28 September 2000, from The Holocaust and War Victims Tracing and Information Center of the American Red Cross to the Claimant's sister, [REDACTED], with respect to her inquiry into the fate of Ludwig Unger; and her father's will, signed on 8 July 1989, identifying the Claimant and her sister as his sole heirs. The Claimant indicated that she was born on 21 April 1920 in Vienna. The Claimant is representing [REDACTED], her sister, who was born on 10 May 1923, also in Vienna.

Information Available in the Banks' Records

Account Owner Wilhelm Unger's account at Bank I

Bank I's record consists of a printout from Bank I's database. According to this record, the Account Owner was Wilhelm Unger, who resided in Amsterdam, the Netherlands, and the Power of Attorney Holders were Adolf Unger, Ludwig Unger, and Greta Unger, who resided at Hauptstrasse 60 in Vienna, Austria. This record further indicates that Ludwig Unger also resided in the Free City of Danzig. According to Bank I's record, Account Owner Wilhelm Unger held a safe deposit box, numbered 1655, which was opened in 1932 and closed in 1946. The amount in the account on the date of its closure is unknown. There is no evidence in Bank I's records that Account Owner, the Power of Attorney Holders, or their heirs closed the account and received the proceeds themselves.

Account Owner Adolf Unger, Account Owner Ludwig Unger and Account Owner Greta Ungers' account at Bank I

Bank I's record consists of a printout from Bank I's database. According to this record, the Account Owners were Adolf Unger, Ludwig Unger and Greta Unger, who all resided at Hauptstrasse 60 in Vienna. According to this record, Account Owner Adolf Unger, Account Owner Ludwig Unger and Account Owner Greta Unger jointly held one account of unknown type, which was frozen in the 1945 Freeze of German assets in Switzerland. Bank I's record indicates that the amount in the account was 1.00 Swiss Franc as of 19 October 1945. Bank I's record does not show when the account was closed, or to whom it was paid. 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 "ICEP Investigation") did not find this account in Bank I'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 Bank I's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

Account Owner *Adolf Unger & Sohn*'s account at Bank II

The CRT notes that the auditors who carried out the ICEP Investigation did not identify an account held by Account Owner *Adolf Unger & Sohn* at Bank II. The information regarding this account was identified in the Austrian State Archives records pertaining to Wilhelm Unger and Adolf Unger.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning both the assets of Wilhelm Unger, numbered 13411, and Adolf Unger, numbered 39023. These documents show that Wilhelm Unger was born on 10 October 1892 and was married to Grete Unger, née Unger. The records further show that Adolf Unger was born on 6 July 1863 and was married to [REDACTED], née [REDACTED]. Both couples resided at Rochusgasse 2 in Vienna, where Wilhelm and Adolf Unger owned a clothing business named *Adolf Unger & Sohn*, which was located at Landstrasser Hauptstrasse 60 in Vienna III. These documents show that Wilhelm Unger registered his assets, including the house at Rochusgasse 2 valued at 428,000.00 Reichsmarks, and his business *Adolf Unger & Sohn*, which was confiscated by the Nazis and sold to a third party for 424,000.00 Reichsmarks. These records indicate that the “flight tax” (*Reichsfluchtsteuer*) imposed on Wilhelm Unger on 6 July 1938 was 220,032.00 Reichsmarks for assets valued at 880,126.00 Reichsmarks. These records further indicate that Adolf Unger registered his assets and was assessed a “flight tax” of 58,582.86 Reichsmarks for assets valued at 234,331.44 Reichsmarks. According to these records, the company *Adolf Unger & Sohn* held an account of unknown type at Bank II, which carried a balance of 1.00 Swiss Franc as of 27 April 1938. These records make no mention of assets held by Wilhelm Unger or Adolf Unger in a Swiss bank account.

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 four claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her parents', grandfather's, and great-uncle's names match the published names of the Account Owners. The Claimant stated that her father's business had connections to Amsterdam, which matches

published information about Account Owner Wilhelm Unger's city of residence contained in Bank I's record. The Claimant also indicated that her father and grandfather owned a business at Landstrasser Hauptstrasse 60 in Vienna III, which matches the unpublished address of Account Owner Adolf Unger, Account Owner Ludwig Unger and Account Owner Greta Unger contained in Bank I's record, and which also matches the address of Account Owner *Adolf Unger & Sohn* contained in the Austrian State Archives pertaining to Account Owner Wilhelm Unger. The Claimant submitted documents, including a copy of her parents' marriage certificate, issued by the Jewish community in Vienna, identifying her parents as Wilhelm and Grete Unger and her paternal grandfather as Adolf Unger; business letterhead of *Adolf Unger & Sohn*, indicating it held bank accounts at the [REDACTED] in Vienna III, at the [REDACTED II] in Zurich, Switzerland, and at the [REDACTED] in Amsterdam, the Netherlands; her father's business card, identifying him as Wilhlem Unger, owner of *Adolf Unger & Sohn*, which was located at Landstrasser Hauptstrasse 60 in Vienna; a letter, dated 28 September 2000, from The Holocaust and War Victims Tracing and Information Center of the American Red Cross to the Claimant's sister, [REDACTED], with respect to the inquiry about the fate of Ludwig Unger; and her father's will, signed on 8 July 1989, indicating the Claimant and her sister, [REDACTED] as his sole heirs.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ludwig Unger, and indicates that his date of birth was 12 February 1870 and place of residence was Vienna, which matches the information about Account Owner Ludwig Unger 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 other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the countries of residence of the Account Owners. Taking all of these factors into consideration, the CRT concludes that the Claimant has plausibly identified the Account Owners and Account Owner *Adolf Unger & Sohn*.

Status of the Account Owners and Account Owner *Adolf Unger & Sohn* 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 were Jewish, and that after the *Anschluss* in 1938, her parents fled from Austria to the United States, that her grandfather fled Austria to the United Kingdom and subsequently drowned in the Atlantic Ocean in 1943 en route to the United States after the boat he was on was bombed by the Nazis; that her great-uncle was deported to Theresienstadt, where he perished in 1942; and that Account Owner *Adolf Unger & Sohn* was confiscated by the Nazis. As noted above, a person named Ludwig Unger was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information and documents, including her parents'

marriage certificate; her father's will identifying the Claimant and her sister as his daughters and heirs; her father's business card identifying him as the owner of Account Owner *Adolf Unger & Sohn*; and a letter, dated 28 September 2000, from The Holocaust and War Victims Tracing and Information Center of the American Red Cross to the Claimant's sister, [REDACTED], with respect to the inquiry about the fate of Ludwig Unger. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Regarding Account Owner Wilhelm Unger's safe deposit box account at Bank I, given that the Account Owner was Jewish and resided in Austria after the *Anschluss* in 1938; that the Power of Attorney Holders were also Jewish and resided in Austria after the *Anschluss*; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found numerous such confiscations of Swiss bank accounts occurred at this time; that the account was closed after the *Anschluss* and before the Swiss freeze of German assets was lifted;¹ that the Account Owner and his heirs would not have been able to obtain information about his account 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 (f), (h), and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Wilhelm Unger, the Power of Attorney Holders, or Account Owner Wilhelm Unger's heirs.

Regarding Account Owner Adolf Unger, Account Owner Ludwig Unger and Account Owner Greta Ungers' account of unknown type at Bank I, given that Account Owner Ludwig Unger was deported to a concentration camp, where he perished in 1942; that Account Owner Adolf Unger died in 1943; that the account was frozen on 16 February 1945; that there is no record of the payment of this account to Account Owner Adolf Unger, Account Owner Ludwig Unger, Account Owner Greta Unger, or their heirs; that Account Owner Greta Unger, her heirs, and the heirs of Account Owner Adolf Unger and Account Owner Ludwig Unger would not have been able to obtain information about their account after the Second World War from Bank I 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner Adolf Unger, Account Owner Ludwig Unger, Account Owner Greta Unger, or their heirs.

Regarding the account of *Adolf Unger & Sohn* at Bank II, the facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their

¹ The CRT notes that after the *Anschluss* in March 1938, Austria was considered part of greater Germany.

accounts are closed unknown to whom or are transferred to Nazi-controlled banks. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis, and given the application of Presumptions (d), (h) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, 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 Account Owner Wilhelm Unger was her father, that Account Owner Greta Unger was her mother, that Account Owner Adolf Unger was her grandfather, that Account Owner Ludwig Unger was her great-uncle and that Account Owner *Adolf Unger & Sohn* was a company owned by her father and grandfather, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Wilhelm Unger held one safe deposit box account at Bank I; Account Owner Adolf Unger, Account Owner Ludwig Unger and Account Owner Greta Unger jointly held one account of unknown type at Bank I; and Account Owner *Adolf Unger & Sohn* held one account of unknown type at Bank II.

As for Account Owner Wilhelm Unger's safe deposit box account held at Bank I, 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 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 safe deposit box account was 1,240.00 Swiss Francs. The current value of the account is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of 15,500.00 Swiss Francs.

As for Account Owner Adolf Unger, Account Owner Ludwig Unger and Account Owner Greta Unger's account of unknown type held at Bank I, Bank I's record indicates that the value of the account of unknown type was 1.00 Swiss Franc as of 19 October 1945. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. 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 amount of 49,375.00 Swiss Francs.

As for *Adolf Unger & Sohn's* account of unknown type held at Bank II, the Austrian State Archives records indicate that the value of the account of unknown type as of 27 April 1938 was 1.00 Swiss Franc. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the account is determined by multiplying the balance as determined by Article 29 value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of 49,375.00 Swiss Francs. Consequently, the total award amount is 114,250.00 Swiss Francs.

Division of the Award

With respect to Account Owner Wilhelm Unger's safe deposit box, according to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. The Claimant and her sister are both descendants of Account Owner Ludwig Unger's parents; therefore, the Claimant and her sister are each entitled to take one-half of this account.

With respect to Account Owner Adolf Unger, Account Owner Ludwig Unger and Account Owner Greta Ungers' account of unknown type, according to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. The Claimant and her sister are both descendants of Account Owner Adolf Unger and Account Owner Greta Unger; therefore, the Claimant and her sister are each entitled to take one-half of this account.

With respect to Account Owner *Adolf Unger & Sohn's* account of unknown type, according to Article 23(3) of the Rules, if the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.), the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. The Claimant has established that Account Owner *Adolf Unger & Sohn* was a company owned by her father and grandfather. Therefore, the Claimant and her sister are each entitled to receive one-half of the proceeds of this account. Consequently, the Claimant and her sister are each entitled to receive one-half of the total 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 claim 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
8 April 2004