

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Jonathan James Palmer, *Mondex Corporation*

in re Account of Franz Waldmann

Claim Number: 402167/BE

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Franz Waldmann (the “Account Owner”) at 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 stepfather, Franz Waldmann, who was born on approximately 30 April 1898 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], the Claimant’s mother, on 31 August 1949 in Melbourne, Australia. The Claimant indicated that his stepfather had previously been married to [REDACTED], whom he divorced on 17 December 1936, and that he did not have any children of his own. According to the Claimant, his stepfather, who was Jewish, resided at Grailichgasse 3 in Vienna III and worked as an attorney at a firm located at Office 1, Kohlmarkt 8 in Vienna. The Claimant further stated that his stepfather was deported to Dachau in 1938, but that he was released in 1939, and that later that year he fled from Austria to Australia where he worked as a farmer. The Claimant indicated that his stepfather died on 31 August 1949 in Melbourne, Australia.

The Claimant submitted copies of: (1) his stepfather’s and mother’s marriage certificate, issued on 31 August 1949, indicating that Franz Waldmann was born in Vienna, that he was a retired farmer, that he divorced his first wife on 17 December 1936, and that he married [REDACTED] on 31 August 1949; (2) his stepfather’s death certificate, issued on 26 April 2005, indicating that Franz Waldmann was born in Vienna, that he was married twice, first to [REDACTED] and then to [REDACTED], that he did not have any children and that he died on 7 December 1957; (3) his mother’s death certificate, issued on 28 April 2005, indicating that [REDACTED] was born in

Vienna, that she was married in Vienna first to [REDACTED] and then to [REDACTED], that her only child was [REDACTED] and that she died on 15 January 1989; (4) his own birth certificate, indicating that [REDACTED] was born on 16 November 1936 to [REDACTED] and [REDACTED]; (5) his stepfather's will, signed on 26 September 1949, indicating that his sole beneficiary was [REDACTED] or, in the event of [REDACTED] predeceasing him, [REDACTED]; (6) his mother's will, signed on 18 December 1985, containing a number of bequests and indicating that the residue of [REDACTED]'s estate was to be left upon trust in two equal shares to her son, [REDACTED], and to her grandchildren.

The Claimant indicated that he was born on 16 November 1936 in Harrow, Middlesex, England.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Franz Waldmann who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one demand deposit account. The Bank's record further indicates that the account was opened on 31 March 1939.

The Bank's record indicates that the account was closed on 30 April 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account 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 Dr. Franz Waldmann, numbered 40682.

The records indicate that Franz Waldmann was born on 30 April 1898, that he was a lawyer, that his law office was located at Kohlmart 8 in Vienna, and that he resided at Grailichgasse 8 in Vienna. The records further indicate that Franz Waldmann owned various properties and securities and that he was the creditor of various debts owed to him.

The records contain an internal memorandum, dated 23 August 1939, by the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt"), containing a summary of Franz Waldmann's assets and calculating their total as 329,485.00 Reichsmark ("RM"). According to this document, this amount was used to calculate Franz Waldmann's flight tax (*Reichsfluchtsteuer*), the amount of which, however, is not specified in this document. The records also contain a letter, dated 30 December 1941, from an attorney, Dr. Hugo Rittler, to the VVSt, referring to [REDACTED], née [REDACTED], as Dr. Franz Waldmann's wife and noting that all the assets of this couple had been seized. Finally, the documents in Franz Waldmann's 1938 Census file

include various letters from Franz Waldmann to the VVSt in January 1939, indicating that he had been in custody from 27 May 1938 until 12 January 1939. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's stepfather's name matches the published name of the Account Owner. The Claimant identified the Account Owner's city and country of residence, which matches unpublished information about the Account Owner contained in the Bank's record and which is also consistent with information contained in the Account Owner's 1938 Census declaration. The Claimant also identified the Account Owner's profession, business and private addresses, the name of his first spouse¹ and the fact that he was imprisoned for a period of time in 1938-1939, which matches information contained in the Account Owner's 1938 Census declaration.

In support of his claim, the Claimant submitted copies of documents, including the marriage certificate of his mother and stepfather; his stepfather's death certificate; and his stepfather's will, 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 record as the name and city of residence of the Account Owner.

The CRT notes that the name Franz Waldmann appears only once on the List of Account Owners Published in 2005 (the "2005 List").

The CRT notes that there are no other claims to this account. Taking all of 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, that he was deported to Dachau in 1938, that he was released in 1939, and that, later that year, he fled to Australia. The CRT notes that the Account Owner was required to register his assets according to 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 stepfather. These documents include: his stepfather's and mother's marriage certificate and his stepfather's death certificate, both indicating that Franz Waldmann and [REDACTED] were married; his mother's death certificate and his own birth certificate, both indicating that

¹ The CRT notes that [REDACTED] and [REDACTED] are variations of the same name.

[REDACTED] was the son of [REDACTED]; his stepfather's will, indicating that his sole beneficiary was [REDACTED], or in the event of her predeceasing him, [REDACTED]; and his mother's will, indicating that the residue of [REDACTED]'s estate was to be left upon trust in two equal shares to her son, [REDACTED], and to her grandchildren.

The CRT notes that information provided by the Claimant indicates that the Account Owner has other surviving heirs, 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 Issue of Who Received the Proceeds

Given that the account was closed on 30 April 1939 and that the Account Owner fled Nazi-controlled Austria for Australia the same year, that there is no record of the payment of the Account Owner's account to him; that information in the Account Owner's 1938 Census file indicates that all the assets of the Account Owner had been seized by the Nazis by 1941; 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 (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 or his 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 stepfather and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. 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 investigation carried out pursuant to 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 2,140.00 Swiss Francs ("SF"). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

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
15 November 2007