

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Friederike Weiss¹

Claim Numbers: 209168/ZP²

Award Amount: 53,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Adolf Weiss. This Award is to the accounts of Friederike Weiss (the “Account Owner”) at the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database (the “TAD”) at 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 her paternal great-aunt, Frederica (Fritzi) Weiss. The Claimant stated that her great-aunt, who was Jewish, was born in 1877 and resided in Vienna, Austria. The Claimant further stated that her great-aunt, who never married, was financially supported by the Claimant’s grandfather, Adolf Weiss, who was born in 1874 in Vienna. The Claimant stated that that her grandfather and her grandmother, [REDACTED], née [REDACTED], who was born on 8 August 1876 in Mannheim, Germany, were married in 1899 in Vienna. The Claimant further stated that her grandparents, who were Jewish, resided at Linke Wienzeile 8 in Vienna VI. The Claimant indicated that her grandfather was the Austrian General Consul to Portugal. The Claimant further indicated that her grandfather fled Vienna prior to the *Anschluss* and that he remained in Lisbon, Portugal, for the duration of the Second World War because he feared being arrested because he was Jewish and the Nazis had issued a warrant for his arrest.

¹ The CRT previously issued a Certified Award to the Claimant to the accounts of Friederike and Rosa Weiss (approved by the Court on 27 December 2002) [hereinafter the “December 2002 Award”].

² The Claimant submitted additional claims to the accounts of [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 209169, 209503, and 213678, respectively. The CRT will treat these claims in separate decisions.

In an e-mail to the CRT dated 18 October 2002, the Claimant stated that her great-aunt Frederica and her sister, [REDACTED], followed their brother, the Claimant's grandfather, to Lisbon and settled there. The Claimant also stated that she thought her great-aunts fled Vienna sometime after the Nazi annexation of Austria (the "*Anschluss*"), in 1941 or 1942. The Claimant stated that she did not know whether her great-aunt resided in any place other than Vienna and Lisbon.

According to the Claimant, her grandparents had five children: [REDACTED]; [REDACTED], née [REDACTED], the Claimant's mother; [REDACTED]; [REDACTED]; and [REDACTED], née [REDACTED]. The Claimant stated that her grandmother, [REDACTED], fled Vienna to Baden, Switzerland, around 1940. The Claimant further stated that her grandfather sent money to Switzerland to support his wife and son. The Claimant explained that her uncle, [REDACTED], who was Jewish, was businessman and assisted Adolf Weiss in his business dealings. The Claimant further explained that her uncle was imprisoned in a German prison by the Nazis, who were trying to force the Claimant's grandfather to return to Vienna. The Claimant added that her uncle escaped from prison in approximately 1941 and fled to Mexico via Switzerland and Lisbon, and that he resided in Mexico City until his death in 1970.

The Claimant stated that her great-aunt Frederica died in Lisbon on an unknown date. The Claimant further stated that her great-aunt [REDACTED] died in Lisbon in 1960 and her grandfather died in Lisbon in 1956, while [REDACTED] died in 1944 in Baden, Germany. The Claimant indicated that all of Adolf Weiss' children, with the exception of the Claimant's mother, [REDACTED], died childless.

In support of her claim, the Claimant submitted her grandmother's passport, which indicates that her grandmother was issued a Swiss residence pass for foreigners on 8 February 1940 in St. Galen, Switzerland; her grandfather's diplomatic passport, which indicates that he was the Consul General to Portugal and which contains his signature. The Claimant also submitted her mother's birth certificate, which indicates that her parents were Adolf and [REDACTED] and that she was born in Vienna; and her own birth certificate, which in turn indicates that her mother was [REDACTED]. In addition, the Claimant submitted her mother's death certificate and the grant of probate, dated 18 October 1996, issued in Bridgeport, Connecticut, which names the Claimant as the sole heir to the estate of [REDACTED].

The Claimant indicated that she was born on 3 February 1951 in Bridgeport, Connecticut.

Information Available in the Bank's Records

The Bank's records consist of correspondence, an account opening card and printouts from the Bank's database. According to these records, the Account Owner was *Frl.* ("Miss") Friederike Weiss and the Power of Attorney Holder was Adolf Weiss. The Bank's records indicate that the Account Owner originally resided in Vienna, although the street address is illegible. The Vienna address was crossed out at some time and the address "Paris" was added. The Bank's records indicate that the Power of Attorney Holder's address was Le Grand Hotel, Place de L'Opera, 12 Bld. Des Capucines, Paris. This address was crossed out on an unknown date.

A note appears in the Bank's records indicating that absolutely nothing was to be sent to Vienna as of 21 March 1938 (*absolut nichts mehr nach Wien senden!*). The Bank's records indicate that the Account Owner held three accounts: one custody account, numbered 33698, and two demand deposit accounts.³ Next to the reference to custody account, numbered 33698, there is a typewritten notation that this custody account is not to be confused with custody account, numbered 31114, (*Nicht verwechseln mit Depot 31114!*). It is not clear from this notation, whether custody account, numbered 31114, was held by the Account Owner or by another customer.

The Bank's records indicate that as of 1937 one of the demand deposit accounts had a balance of 138.00 Swiss Francs. The Bank's records do not indicate the balance of either custody account, 33698, or the other demand deposit account.

The Bank's records also contain correspondence from the Bank addressed to [REDACTED] dated 25 September 1943 and 11 January 1944 and in which the Bank requested address information for *Herrn* Consul Adolf Weiss, *Frau* [REDACTED] and *Fraulein* Friederike Weiss.

The Bank's records indicate that the accounts were closed on 29 May 1940. The amounts in the accounts on their dates of 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.

These accounts were not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the databases comprising the approximately 4.1 million accounts representing the approximately 6.8 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 accounts, in databases located at the 59 ICEP audited Swiss banks,⁴ are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database -- the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

In order to expedite the results of the ICEP investigation, certain necessarily arbitrary presumptions were used to exclude the 1.9 million savings and Swiss address accounts from the probable or possible accounts category. The 2.2 million were matched against the ICEP's victims database, but the reason for their exclusion in at least a significant number of cases no longer appears to be valid in the light of the experience of the CRT in reviewing cases as part of the Claims Resolution Process. For example, many accounts were excluded from the Account History Database on the grounds of activity after 1945, but in some cases there now appears to be no evidence that the account owners had full dominion over the accounts and were not just

³ The CRT notes that the custody account, numbered 33698, was already awarded to the Claimant in the December 2002 Award.

⁴ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

inquiring whether the bank, after many years, still maintained the record of their deposits, a fact often denied by the banks in these circumstances as has been demonstrated in many Awards made by the CRT.

These two sources may contain significant numbers of accounts of Nazi victims, especially when it is considered that of the 33,000 claims that were submitted to the CRT, 21,000 did not match to the 36,000 accounts in the Account History Database of probable and possible Nazi victim accounts. Because of the significant potential of this body of accounts, in its final Report in December 1999, ICEP specifically recommended that all claims submitted to the CRT should be matched against the applicable databases of accounts. The Rules Governing the Claims Resolution Process provide the procedures under which the TADs would be available for matching and research, but as a practical matter, until now, they have not been available to the CRT for this purpose.

Starting in the first week of this year, a test of the TAD was initiated at the Bank, with its full cooperation. The results of this test are now being compiled. This award is part of a group of accounts identified during the TAD test. Others are in the process. A final recommendation on the use of the TAD will be made to the Court when the final results of the test have been compiled.

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 the assets of Adolf Weiss and [REDACTED], née [REDACTED]. The records for Adolf Weiss, numbered 63109, consist of an internal memorandum of the Property Registration Office dated 9 January 1939, which states that an investigation was to be conducted in order to obtain information about the assets of Adolf Weiss, who resided at Linke Wienzeile 8, Vienna VI. The records also consist of a warrant of seizure issued by the Finance Authority of East Vienna dated 9 December 1938, against Adolf Weiss in Vienna VI, and against a [REDACTED] in Berlin, Linkstrasse 42. The records show that Adolf Weiss owned assets together with [REDACTED] valued at 300,000.00 Reichsmarks (1938 value), of which they were forced to pay 75,000.00 Reichsmarks in “flight tax” (*Reichsfluchtsteuer*). The records for [REDACTED] consist of an Austrian census form numbered 32563, which is dated 12 July 1938. These records indicate that [REDACTED] was born on 8 August 1876, and that she was married to Adolf Weiss. The records show that [REDACTED] resided at Vienna VI, Linke Wienzeile 8. The records indicate that [REDACTED] owned cash and securities worth approximately 21,300.00 Reichsmarks (1938 value). These records also indicate that proceedings were being taken against Adolf Weiss and include a newspaper article dated 5 October 1938 from the *Wiener Zeitung* nr. 274 which

describes how Adolf Weiss owed 75,000.00 Reichsmarks in flight taxes and was at that time at Rue Scribe 2 in Paris 2 and urged anyone to capture him should he return to Austria.

No records exist in the Austrian State Archives for Friederike Weiss.

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 claims of the Claimant in one proceeding.

Identification of the Account Owner

With regard to the two demand deposit accounts, the Claimant has plausibly identified the Account Owner. The Claimant's great-aunt's name matches the published name of the Account Owner. The Claimant stated that her great-aunt never married and initially resided in Vienna, which matches unpublished information about the Account Owner's marital status and city of residence recorded in the Bank's records. In addition, the Claimant grandfather's name and title match the unpublished name and title of the Power of Attorney Holder. The CRT notes that the Claimant spells her great-aunt's first name "Frederica," whereas the Bank's records spell her first name "Friederike." However, given that the Claimant provided her great aunt's marital status and city of residence, her grandparents' names and her grandfather's title, all of which match unpublished information contained in the Bank's records, the CRT concludes that this spelling discrepancy is minor and does not significantly alter the identification of the Account Owner. Furthermore, the Claimant submitted her grandfather's diplomatic passport, which indicates that he held the title Consul, providing independent verification that the person who is claimed to be the Power of Attorney Holder had the same title as that recorded in the Bank's records as the title of the Power of Attorney Holder. The Claimant also submitted her mother's birth certificate, indicating that her parents were Adolf and [REDACTED] Weiss and that she was born in Vienna; and her own birth certificate, indicating that her mother was [REDACTED]; providing independent verification that the Claimant's relatives bore the family name and that they resided in the same city as that recorded in the Bank's records as the family name and city of residence of the Account Owner. These documents also provide independent verification that the Claimant's grandfather had the same name as that recorded in the Bank's records as the name of the Power of Attorney Holder and that the Claimant's grandmother had the same name as that recorded in correspondence in the Bank's records to a [REDACTED]. The CRT further notes that the name Friederike Weiss appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Finally, the CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

With regard to custody account, numbered 31114, the CRT has decided not to reach a conclusion at this time pending further consideration as to the identity of the Account Owner of that account.

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 and was forced to flee Austria when the Nazis invaded the country. Furthermore, the Claimant has made a plausible showing that the Power of Attorney Holder was a Target of Nazi Persecution. The Claimant stated that the Power of Attorney Holder was Jewish and was forced to remain in Lisbon when the Nazis issued a warrant for his arrest.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting detailed biographical information, demonstrating that the Account Owner was the Claimant's great-aunt. The CRT further notes that the Claimant identified unpublished information about the marital status and city of residence of Friederike Weiss, the unpublished name and title of the Power of Attorney Holder, Adolf Weiss, and the unpublished name of the person to whom Bank correspondence was directed, *Frau* ("Mrs.") [REDACTED], as contained in the Bank's records. The CRT notes that in its correspondence to *Frau* ("Mrs.") [REDACTED], the Bank asked for information about *Herrn* Consul Adolf Weiss and *Fraulein* Friederike Weiss, providing a clear indication that the Bank understood that Friederike Weiss was associated with the two demand deposit accounts and with [REDACTED] and Adolf Weiss. In addition, the CRT notes that the Claimant provided information about her grandfather and great-aunts' relationship, which supports the fact that her grandfather was the unpublished Power of Attorney Holder over her great-aunt's accounts. Furthermore, the CRT notes that the Claimant submitted a copy of her grandfather's diplomatic passport, indicating that he held the title Consul, providing independent verification that the Claimant's grandfather held the same title as that recorded in the Bank's records as the title of the Power of Attorney Holder. The CRT further notes that the Claimant submitted a copy of her mother's birth certificate, indicating that her parents were Adolf and [REDACTED] and that she was born in Vienna; and her own birth certificate, indicating that her mother was [REDACTED]; providing independent verification that the Claimant's relatives bore the family name and that they resided in the same city as that recorded in the Bank's records as the family name and city of residence of the Account Owner. These documents also provide independent verification that the Claimant's grandfather had the same name as that recorded in the Bank's records as the name of the Power of Attorney Holder and that the Claimant's grandmother had the same name as that recorded in correspondence in the Bank's records to a [REDACTED]. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the two demand deposit accounts, given that the accounts were closed on 29 May 1940 after the *Anschluss*, which occurred on 13 March 1938; 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 Owner resided in Austria until she fled sometime around 1941 or 1942; 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 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 (a), (h) and (j), as provided in Article 28 of the Rules, 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 her great-aunt, and that relationship justifies 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

In this case, the Account Owner held two demand deposit accounts. The Bank's records indicate that the value of one of the demand deposit accounts as of 1937 was 138.00 Swiss Francs. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. Thus the total 1945 average value of the two demand deposit accounts is 4,280.00 Swiss Francs. The current value of the amount of the award 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. Consequently, the total award amount in this case is 53,500.00 Swiss Francs.

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) at banks other than the Bank.

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