

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial upon Request for Reconsideration

to the Estate of Claimant [REDACTED]
represented by [REDACTED]¹

in re Accounts of Arnold Löffler and Margit Löffler

Claim Numbers: 220695; 220696; 220697; 220698²
Appeal Number: 3184

This Certified Denial upon Request for Reconsideration is based upon the claims of [REDACTED], née [REDACTED], to the unpublished accounts of Arnold Löffler (“Claimed Account Owner Arnold Löffler”) and Margit Löffler (“Claimed Account Owner Margit Löffler”) (together the “Claimed Account Owners”) at a number of Swiss financial institutions which held mortgages on properties owned by the Löfflers in Zurich, namely the [REDACTED] (“Bank 1”); [REDACTED] (“Bank 2”); [REDACTED] (“Bank 3”); [REDACTED] (“Bank 4”); [REDACTED] (“Bank 5”); [REDACTED] (“Bank 6”); [REDACTED] (“Bank 7”); [REDACTED] (“Bank 8”) (together the “Banks”) and the [REDACTED] (the “Swiss Insurance Company”).

All denials 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.

Procedural History

In four decisions approved by the Court on 26 June 2006, the CRT treated the Claimant’s claims to the accounts of Arnold Löffler, Helga Helen Sorter, Margit Löffler, Werner Hausheer, and A. Biggenstorfer. In those decisions, the Claimant was informed that the CRT was unable to locate

¹ In correspondence with the CRT, [REDACTED] informed the CRT that his mother, [REDACTED] (the “Claimant”), passed away in November 2006.

² As detailed above, in four decisions dated 26 June 2006, the CRT treated the Claimant’s claims to the accounts of Arnold Löffler, Helga Helen Sorter, Margit Löffler, Werner Hausheer, and A. Bliggenstorfer. In those decisions, the CRT indicated that it had not located any accounts belonging to these individuals in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The CRT notes that, with her claims, the Claimant submitted documents purportedly showing the existence of accounts held by Arnold and Margit Löffler and by Eduard and Gisela Schweinburg. This decision treats the Claimant’s claim to the purported accounts of Arnold and Margit Löffler. The CRT will treat the Claimant’s claims to the accounts of Eduard and Gisela Schweinburg in a separate decision.

any accounts belonging to these individuals in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

In subsequent correspondence, the Claimant appealed these decisions, noting that she had submitted documentation, including archival documents, purportedly showing that her parents, Arnold and Margit Löffler, owned Swiss bank accounts. This decision addresses these documents submitted by the Claimant, as well as additional documentation obtained by the CRT. As detailed in this decision, these accounts were not reported by the auditors during the ICEP Investigation and thus were not included in the AHD.

Information Provided by the Claimant

The Claimant submitted four Claim Forms identifying the Claimed Account Owners as her parents, Arnold Löffler and Margit Löffler, née Schweinburg. The Claimant stated that Arnold Löffler, who was Jewish, was born on 3 April 1877 in Vienna, Austria, and was an architect and builder. The Claimant stated that her father resided at Billrothstrasse 48 in Vienna until 1938, when he fled with his family to New York, New York, where he passed away on 17 July 1940. According to the Claimant, Margit Löffler, who was also Jewish, was born on 26 March 1890 in Vienna and died in 1975 in Los Angeles. The Claimant stated that she was her parents’ only child.

The Claimant stated that in 1931, her parents purchased six rental properties in Zurich, Switzerland. According to information provided by the Claimant, her father owned properties located at Albisstrasse 99 and 103 and Langacker 68; and her mother owned properties at Albisstrasse 95 and Langacker 60 and 62. The Claimant stated that these purchases were financed through mortgages from Swiss financial institutions. In her claim, the Claimant asserted that her parents must have had accounts at these financial institutions or at other Swiss banks in order to service these mortgages and manage the income flows from their properties. The Claimant also asserted that the Banks colluded with the Nazi regime in Austria in the sale of her parents’ Zurich properties.

In support of her claims, the Claimant submitted a large number of documents dated between 1931 and 1940 regarding the finances and eventual disposition of her parents’ properties in Zurich. The Claimant also submitted a number of documents relating to the efforts of her son to obtain information in the late 1990s about the sale of these properties, and about any remaining assets in the names of Arnold and Margit Löffler in Switzerland. The Claimant stated that these documents stem from family files. The Claimant also submitted documents relating to the restitution claims Margit Löffler filed with the *Abgeltungsfonds* in Vienna.³ These documents, together with additional information obtained by the CRT, are described in detail below.

³ The *Abgeltungsfonds*, established by the Federal law of 22 March 1961, was the Austrian restitution agency set up to deal with losses of financial assets consequent upon political persecution. A draft law had already been fashioned in 1959, but languished for several years because of difficulties in accommodating the demands of different interest

The Claimant indicated that she was born on 7 August 1918 in Vienna.⁴ The Claimant's son, [REDACTED], who represents the Claimant, informed the CRT that his mother passed away in November 2006.

Information Available in the Banks' Records

The CRT notes that the auditors who carried out the investigation of Swiss banks to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Arnold or Margit Löffler during their investigation. The documents purportedly indicating accounts at Swiss banks was forwarded to the CRT by the Claimant.

These documents consist of correspondence relating to the inquiries made by Mr. [REDACTED] to a number of the Banks in the late 1990s regarding any account relationship the Löfflers might have had with these Banks and whether any assets might still be held in the names of Arnold and Margit Löffler.

The Claimant also submitted a letter dated 17 February 1998 from the successor of Bank 3, which states that it could not find any assets under the Löfflers' names in Bank 3's archives; a letter dated 17 February 1998 from Bank 7, which states that its internal investigations had not disclosed any links to the Löfflers' Zurich properties, but provided some information on one of the properties, noting that the Claimant had already received the relevant documentation from the land registry office; a letter dated 4 March 1998 from Bank 4, which states that its internal investigations had not produced any evidence of a banking relationship between that bank and the Löfflers; and a letter dated 28 January 1998 from Bank 1, which states that its internal investigation had produced one document regarding a mortgage that Bank 1 had held on Arnold Löffler's property at Albisstrasse 99, a copy of which was attached to the letter. In its letter, Bank 1 advised Mr. [REDACTED] to address his inquiries to the respective Zurich real estate registries. Bank 1's record does not indicate any assets, such as accounts, held by Arnold Löffler at Bank 1.

Mr. [REDACTED] apparently followed Bank 1's advice to address his inquiries to the appropriate land registry offices in Zurich. The Claimant submitted documents from the land registry office at Unterstrasse-Zurich dated 8 January 1998 regarding the sales of the three properties at Langackerstrasse 60, 62 and 68, and a letter, dated 3 March 1998, from the land registry office at Enge-Zurich (which was responsible for the Albisstrasse area), advising that they had located the requested documents and would forward the three purchase contracts upon receipt of 60.00 US dollars ("US \$") to cover costs. The Claimant submitted the documents for the sales of the Langackerstrasse properties, but no such documents for the three Albisstrasse properties.

groups and, perhaps most important, the drawn-out negotiations with Germany regarding its contributions to the compensation of Nazi victims in Austria.

⁴ The CRT notes that the four claims filed by the Claimant each indicates a different date of birth: 18 August 1918 (claim 220695); 18 July 1918 (claim 220696); 8 August 1918 (claim 220697); and 7 August 1918 (claim 220698). According to the 1938 Census documents submitted by Arnold Löffler, she was born on 7 August 1918. The CRT cites this date as her date of birth.

The Claimant also submitted the original contracts, dated in 1931, for the three Langackerstrasse properties and for Albisstrasse 99 and 103. It is not clear whether these documents came from the family's records or were obtained by the Claimant at a later date. The 1931 documentation includes a management contract, dated 25 September 1931, between the Löfflers and Max Rotter, a Zurich architect for the six properties. This contract provided *inter alia* for considerable micro-management on the part of the owners of the financial transactions associated with these properties. Thus, payment of all expenses required the owners' prior approval, and rental income was to be deposited into a savings account (*Sparkassenbuch*) over which only the owners could dispose. The documents do not indicate how long this arrangement lasted. However, according to the documents, at least as of mid-1937, the day-to-day management had been turned over to A. Bliggenstorfer (*A. Bliggenstorfer Verwaltungsbureau*) and the financial responsibilities to the Löfflers' Zurich tax adviser at the time, Dr. Werner Hausheer. Dr. Hausheer submitted periodic income and expense statements, a number of which were provided by the Claimant, which indicate that he had considerable freedom in making payments, and that he managed the income flows from the properties. There is no indication that he maintained accounts in the names of the Löfflers in any Swiss financial institution or that they did so themselves in connection with these properties.

Information Available from the Austrian State Archive

By decree, dated 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 Arnold Löffler and Margit Löffler, numbered 14794 and 14825, respectively.

The records indicate that Arnold Löffler, an engineer and property owner, was born on 3 April 1877 in Vienna; that he was married to Margit Charlotte Löffler, née Schweinburg, who was born on 26 March 1890 in Vienna and who gave her profession as property owner; that they had one daughter, [REDACTED], who was born on 7 August 1918 in Vienna; and that at the time of submitting their asset declaration they resided at the Pension Elite, Wipplingerstrasse 32 in Vienna. Margit Löffler signed her asset declaration on 11 July 1938; there is no signature date included in Arnold Löffler's file.

According to their asset declarations, the bulk of the Löfflers wealth consisted of real estate holdings. Arnold Löffler declared owning seven rental properties and a one-third share of another property (*Grundstück*), as well as three rental properties in Zurich, Switzerland. The total declared value of his real estate holdings was 2,313,332.00 *Reichsmark* ("RM"). According to Arnold Löffler's asset declaration, these properties were mortgaged to an amount of RM 1,439,094.00 and he had further miscellaneous liabilities, apparently also related to these properties, of RM 8,389.00 for a total of RM 1,447,483.00. Arnold Löffler further declared owning property-related securities worth RM 17,372.00, insurance policies worth RM 13,746.00, pension rights worth RM 16,400.00, and liquid assets worth RM 25,227.00. Of the latter, RM 15,484.00 were in an account at the *Oesterreichische Creditanstalt, Wiener Bankverein* ("*Bankverein*") and lesser amounts in accounts at the *Zentraleuropäische Länderbank*, the

Merkurbank and the Community of Vienna Central Savings Bank (*Zentralsparkasse Gemeinde Wien*). Arnold Löffler indicated that of his declared cash holdings, RM 1,200.00 had been confiscated by the Gestapo, so that only RM 60.00 remained.

Arnold Löffler's file includes a letter, dated 27 August 1940, from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt.") to the police authorities in Salzburg. This letter notes that, according to the Vienna police, Arnold Löffler had been registered as having departed for Salzburg on 24 September 1939, and inquires about Löffler's whereabouts.

The file includes contracts of aryанизation sales, dated between 12 July 1939 and 5 February 1940, for four of Arnold Löffler's properties in Vienna. The contracts include a standard clause that directed that the net proceeds of the sales, *i.e.*, after settlement of liabilities and payment of emigration costs of the owner (including the costs of shipping household goods, visa, and tickets) be placed in a blocked bank account marked "aryанизation proceeds" (*Entjudungserlös*) that could be accessed only with the permission of the Foreign Exchange Control Office (*Devisenstelle*). These contracts note that Arnold Löffler at the time of the sales resided in New York, New York. The file also contains a letter, dated 20 September 1940, from the VVSt. to the Gestapo with which it transmitted the 1938 asset declarations of seven wealthy Jews, including Arnold Löffler, noting, *inter alia*, that given that these persons had fled the Reich, their citizenship could be withdrawn and their assets forfeited to the Reich. Finally, the file contains a communication from the Gestapo to the VVSt., dated 3 February 1941, notifying the VVSt. that the Gestapo had initiated the withdrawal of the Löfflers' citizenship and that all their remaining assets had been seized with a view to their confiscation in favor of the Reich.

With respect to Arnold Löffler's Zurich properties, his declaration lists the properties and the holders of mortgages on them with the respective amounts as follows:

1. Albisstrasse 99 [Bank 1], 100,000.00 Swiss Francs ("SF")
[Bank 2], SF 15,500.00.00
2. Albisstrasse 103 [Swiss Insurance Company], SF 95,000.00
[Bank 3], SF 15,450.00
Meier Alttorfer, SF 750.00
3. Langackerstrasse 68 [Bank 4], SF 48,735.00
[Bank 2], SF 12,200.00

The records do not contain any indication that Arnold Löffler held accounts at any Swiss financial institutions.

The records pertaining to Margit Löffler, as noted above show her occupation as real estate owner. She listed owning one rental property in Vienna, worth 919,000.00, and three rental properties in Zurich worth RM 194,940.00, for a total of RM 1,113,940.00. Mortgages on these properties amounted to RM 1,041,900.00. She further lists a rental income participation worth RM 12,000.00. Margit Löffler also declared household valuables and jewelry worth RM

17,400.00, including a car worth RM 3,000.00, which had already been confiscated by the Gestapo.⁵ Margit Löffler's asset declaration did not list any liquid assets.

Margit Löffler's file also includes an aryanization sales contract, dated 11 June 1940, for her rental property in Vienna. This contract notes that Margit Löffler resided in New York, New York, at the time of the sale and contains the standard clause, which directed that the proceeds of the sales after settlement of liabilities and payment of emigration costs of the owners (shipping of household goods, visa, and tickets) be placed in a blocked bank account, marked "aryanization proceeds" ("*Entjudungserlös*") that could be accessed only with the permission of the Foreign Exchange Control Office (*Devisenstelle*).

With respect to Margit Löffler's Zurich properties, her declaration lists the properties and the holders of mortgages on them, with the respective amounts as follows:

1. Albisstrasse 95 [Swiss Insurance Company], SF 113,000.00
[Bank 5], SF 6,500.00
2. Langackerstrasse 60 [Bank 6], SF 93,000.00
[Bank 8], SF 31,000.00
3. Langackerstrasse 62 [Bank 6], SF 93,000.00
[Bank 7], SF 25,000.00

The records do not contain any indication that Margit Löffler held accounts at any Swiss financial institutions.

Documentary Information and Background

The Claimant's parents, Arnold and Margit Löffler, were wealthy Austrian Jews who resided in Vienna. Arnold Löffler was an important builder and architect in Vienna, and most of their wealth was held in the form of real estate. According to their 1938 Census declarations, the Löfflers owned nine properties in and around Vienna and six in Zurich.

The Löfflers maintained separate ownership of their assets. Thus Margit Löffler, who was the daughter of [REDACTED], an architect and owner of an important construction firm in Vienna, was wealthy in her own right. Among her reported assets, she declared owning one property worth RM 919,000.00 in Vienna and three in Zurich worth RM 194,940.00, for a total of RM 1,113,940.00. Arnold Löffler declared owning eight properties in Vienna worth RM 2,115,998.00 and three in Zurich worth RM 197,334.00, for a total of RM 2,313,332.00. Together, the Löfflers declared real estate worth RM 3,427,272.00. All these properties were heavily mortgaged, albeit to various extents. The declared total worth of the six properties in Zurich was SF 688,200.00 and mortgages on these were declared at SF 687,900.00. The Claimant submitted correspondence regarding these properties that includes certified estimates of the market value of the Swiss properties, and this correspondence shows somewhat higher

⁵ In her 1938 Census declaration, Margit Löffler reported owning only eight paintings with a total worth of RM 3,000.00. However, she apparently shared the use of her parents' important art collection and may have owned a number of important pieces in her own right.

valuations. According to a letter dated 21 July 1938 from the Löfflers' Zurich tax advisor Dr. Hausheer to Dr. Franz Kurz (apparently one of the Löfflers' lawyers in Vienna), the total estimated market value of the properties was SF 723,500.00, with the outstanding mortgages amounting to SF 687,900.00 (the same value cited in the Löffler's 1938 Census declarations). Dr. Hausheer estimated the costs associated with a sale of these properties at approximately SF 30,000.00, leaving under the best of circumstances a net proceed of only "a few thousand francs" [actually SF 5,600.00]. Dr. Hausheer wrote that, in effect, the valuation of the properties must be considered optimistic, because the expert who made it had not been aware that some of the mortgage loans had been called. The CRT notes that the original purchase contract for two of the properties, dated in 1931, shows that there were secondary loans that became callable on 1 December 1937 and it would seem that these indeed were called. Dr. Hausheer concluded that, as no funds were available to repay the called loans, non-repayment would result in forced sales of these properties. In these circumstances, the estimated worth would not be realized. Table 1 below details the properties' value estimates, sale prices and outstanding mortgages.

Table 1.

	Value in SF			Date of sale	Notes	In SF
	1938 Census	Certified Estimate 20 July 1938	Sale price			Mortgage 1938 Census
Arnold Löffler						
Albisstr. 99	130,000	137,500	132,000	18 January 1939	Contract figure (but no document) SF 138,000	1 st : 100,000 2 nd : 15,000
Albisstr. 103	118,500	122,000	115,000	17 April 1939	Accounting detail	1 st : 95,000 2 nd : 15,450 3 rd : 750
Langacker 68	97,700	108,000	101,000	7 February 1940	Auction	1 st : 85,500 2 nd : 12,200
Margit Löffler						
Albisstr. 95	137,000	140,000	132,000	27 January 1939	Contract figure (but no document) SF 150,000	1 st : 115,000 2 nd : 6,500
Langacker 60	102,000	108,000	99,700	2 July 1940	Auction	1 st : 93,000 2 nd : 31,000
Langacker 62	103,000	108,000	105,000	13 March 1940	Auction	1 st : 93,000 2 nd : 25,000

In his letter of 21 July 1938, Dr. Hausheer therefore suggested that the Löfflers come to Zurich to liquidate some of these properties, and that they do so within the next couple of months, because by October [1938] it might be too late unless, of course, the Löfflers obtained permission from the foreign exchange authorities to transfer the necessary funds. It would appear that this letter was written to provide information required by the *Bank Krentschner & Co.* in connection with Arnold Löffler's signing on to the *Gildemeester Aktion* (see below), as well as to justify a trip by the Löfflers to Switzerland.

A letter dated 16 June 1938 to the Gestapo from Otto Rössler, the *kommissarische Verwalter* (Nazi administrator) assigned to administer the assets of the Löfflers, also indicates that the Löfflers apparently did not maintain liquid assets in Switzerland. Rössler refers to the fact that on 10 May 1938 the foreign exchange authorities had given the Löfflers general approval to use

the income from their Zurich properties to maintain these properties and to pay associated expenses, including mortgage commitments. The *Reichsbank* had also approved the [foreign currency] release of SF 15,317.80 on 24 May 1938. As Arnold Löffler's [domestic] bank accounts had been blocked in the meantime, Löffler had written to the *Bankverein* to express his concern that the possibility to effect the transfer would be void eight days hence, the *Reichsbank's* approval apparently having been valid for 30 days only. Rössler further referred to a deposit of SF 4,951.40 held by Arnold Löffler, which the Foreign Exchange Control Office (*Devisenstelle*) had released to enable Dr. Hausheer to meet commitments on the properties. This release would expire as well unless Dr. Hausheer received written authorization to access these funds in time.

Rössler further noted that he had received a forward estimate of the balances for the Zurich properties which showed that by November 1938 there would be a shortage of approximately SF 10,000.00.⁶ Rössler wrote that if this amount could not be transferred, forced sales might ensue, and the proceeds of these forced sales would not suffice to cover the outstanding mortgages. Rössler noted that he had his information from the Löfflers' Vienna tax adviser, H. Schneeweiss, who had advised him that permission for such a capital transfer had already been denied. Rössler noted that, under the Swiss-German Agreement, any shortage would have to be covered from funds in Vienna, and that this would entail a foreign currency drain from the Reich. Therefore, he wrote, it might be preferable to ensure that any sale would be voluntary, as then the Reich would benefit from the influx of some foreign exchange [as any foreign exchange profits would need to be delivered to the *Reichsbank* for conversion]. Rössler assured the Gestapo that Mr. Schneeweiss had been told to make him [Rössler] aware of any transactions relating to the Swiss properties and that he was advising the Löfflers, as well as their Vienna attorney Johann Kurz,⁷ that any possible sales of the Swiss properties would need the agreement of the Gestapo.

The documentation submitted by the Claimant also includes Dr. Hausheer's accounting reports for the period from late 1937 to June 1939. These reports show that though the properties at times yielded a positive income flow after deduction of running costs, they could not cover total expenditures without capital injections. The documentation records two such capital injections, both of which came from sources outside Switzerland: the first, in an amount of SF 6,000.00, was transferred via check from the *Bank Singer & Friedländer* in London and was received on 7 October 1937. The second, received on 9 July 1938, reflected the transfer from Austria of the SF 4,951.40 deposit, the release of which had been approved by the Foreign Exchange Control Office in May 1938 (see above). Almost one-half of the latter amount, SF 2,358.05, went to cover taxes, of which SF 1,442.30 was for amounts due from 1936. There is no indication in the documentation that the Löfflers maintained any bank accounts in Switzerland. The periodic references in Dr. Hausheer's accounting reports to surpluses in favor of the Löfflers were rolling account references, which often in subsequent reports were applied against previous balances in favor of Dr. Hausheer (*i.e.*, deficits).

⁶ Forward estimate covering the period 25 May–30 November 1938 by A. Bliggenstorfer (manager of the Löfflers' Zurich properties) showing rental income of SF 28,155.00 against running costs, including city taxes, of SF 9,500.00; interest on mortgages of SF 18,586.00; loan redemptions of SF 9,750.00; and state and communal taxes of SF 2,769.55 for total expenditures of SF 40,605.55, leaving a deficit of SF 12,450.55.

⁷ It is not clear what the relationship was between Johann Kurz and Franz Kurz, of the same address, to whom Dr. Hausheer addressed his 21 July 1938, cited above, *i.e.*, whether both acted for the Löfflers or even were the same person.

The Löfflers were preparing for emigration by at least 21 April 1938. On that date, Dr. Hausheer transmitted a letter from Margit Löffler to Louis Bondy in Baltimore, Maryland, and explained that the Löfflers were asking Bondy to obtain the necessary affidavits for entry into the United States for them. On 17 June 1938, Dr. Hausheer confirmed that he had issued an invitation to the family to visit him in Zurich. In the meantime, on 18 August 1938, Arnold Löffler signed on to the “*Aktion Gildemeester*” under which the family would be allowed to emigrate, taking some part of their possessions with them, in return for signing over the bulk of their assets to Administration (*Treuhand*) by the *Bank Krentschner & Co.* However, Arnold Löffler, fearing for his and his family’s safety, decided that the *Gildemeester* process was too slow and, according to the restitution documentation, fled with his family on 19 September 1938. According to the Claimant, the Löfflers fled to the United States via Switzerland.⁸ Dr. Hausheer, as noted above, in a first step toward obtaining entry visa for the family had issued an invitation to visit him in June 1938 and notified them that entry visa for Switzerland were ready for pick-up at the Swiss Consulate on 19 September 1938.⁹ The CRT notes that the Vienna police had the Löfflers departing Vienna for Salzburg on 24 September 1938. The Löfflers, who according to the Claimant, had tickets to sail from France to New York on 29 October 1938 remained in Switzerland only briefly. The documentation shows that the family was in France by at least 24 October 1938, when Arnold wrote from Paris to Franz Berger in Zurich. Berger was the son of a Viennese building magnate, who was close to the Löfflers (Arnold signed himself as “uncle” and referred to Margit as “your aunt” in the letter), and Arnold asked for his help in achieving a fast sale of the Zurich properties. He explained that he needed cash in view of his emigration to the United States, and that getting this fast was a matter of life and death, as all efforts by himself, Dr. Hausheer, and Bliggenstorfer to sell the properties so far had been unsuccessful, and that he therefore had postponed the family’s departure [for the United States] by several days. He went on to say that in the circumstances, he would be prepared to accept a sale at below the estimated market values, even though these already represented a minimum. He noted also that he was in default on the second mortgages on two of the properties, so that selling the other properties would be preferable. This reference probably was to the properties at Langacker 60 and 62, the second mortgages on which had become callable on 1 October 1937 and apparently had been called. In a second letter of the same date, he offered Berger a two percent commission and described Dr. Hausheer as “a real friend.” He further wrote that he and his family might come to Zurich to see to the sale. However, they apparently decided to travel on from Paris as Dr. Hausheer noted in his accounts that he had withdrawn the application for an entry visa on 12 November 1938 [this must have been a new application, as the documents show that the September visa had actually been issued]. According to the Claimant, the family arrived in New York on or about 7 November 1938.

However, by early 1939, three of the properties had actually been sold: on 1 February 1939 Albisstrasse 95 and 99 were sold for SF 132,000.00 each, and Albisstrasse 103 was sold on 1 April 1939 for SF 115,000.00. After deduction of outstanding mortgages and commissions and other costs of sale, the net proceeds on these properties were minimal. The only detailed

⁸ The same flight path is cited also in Theodor Venus and Alexandra-Eileen Wenck, *Die Entziehung jüdischen Vermögens im Rahmen der Aktion Gildemeester*, Oldenbourg Verlag, Vienna, Munich, 2004, p. 229. However, they give the date of departure from Vienna as end-September 1938.

⁹ Telegram from Dr. Hausheer to Löffler, dated 19 September 1938, advising that the visa were ready to be picked up at the Swiss consulate that day.

accounting available in the documentation is for the sale of Albisstrasse 103. On this sale, the purchaser took over the first mortgage, leaving SF 20,000.00 to be paid in cash. After repayment of the second mortgages and deduction of sales costs, SF 2,341.70 was left. Dr. Hausheer then, on 4 May 1939, transferred US \$500.00 (SF 2,230.00) by check to Löffler, leaving a small positive balance in the Löfflers' rolling account on his books.

As noted, no similar accounting is available for the sales of Albisstrasse 95 and 99, although a letter from Dr. Hausheer to H. Schneeweiss (the Löfflers' tax adviser in Vienna), which is further discussed below, provides summary numbers.¹⁰ It is the proceeds for these properties on which the Claimant centered her claim. Arnold Löffler had sent Dr. Hausheer a letter, dated 14 August 1939, in which he apparently had asked for an update on the accounts for the Zurich properties. On 4 September 1939 one of Dr. Hausheer's associates replied in Dr. Hausheer's absence on military service, sending the accounts and also transmitting the sales contracts for the three Albisstrasse properties. With regard to the latter, he explained that for two of the properties the purchasers had insisted that a higher purchase price be recorded than actually paid. Thus, while the contracts showed a sale price of SF 138,000.00 and SF 150,000.00 for Albisstrasse 99 and 95, respectively, these properties had actually been sold for SF 132,000.00 each. The SF 24,000.00 difference between the contract price and the amount that, according to Dr. Hausheer, was actually realized then became a bone of contention. On 10 November 1939, Arnold Löffler engaged Milton Jacobs, a lawyer in New York, to institute, on a contingency fee basis, a claim against Dr. Hausheer for this SF 24,000.00, which he believed Dr. Hausheer had actually received.

Prior to that time, on 1 October 1939, Dr. Hausheer, replying to letters from the Löfflers dated 20 September 1939, which arrived while he was on vacation following his military service, belatedly informed them that foreclosure measures had been instituted on the three yet unsold Langackerstrasse properties because of arrears on tax and mortgage payments. Accordingly, neither he, Dr. Hausheer, nor Bliggenstorfer were able to transfer any monies to the Löfflers.¹¹ On 5 October, Bliggenstorfer confirmed the foreclosure information, writing that the Zurich foreclosure agency (*Betriebsamt*), at the behest of both the tax authorities and some of the mortgage holders, had already in June and July 1939 taken the three Langackerstrasse properties into administration for non-payment of outstanding obligations and that, therefore, he was unable to transfer the positive balance of SF 1,387.89 that had accrued by 30 June 1939.¹² Finally, Dr. Hausheer, replying to Arnold Löffler's further request of 27 October 1939 for transfer of a remaining SF 371.25 balance, wrote on 13 November 1939 that by that time both the mortgage holders and the tax authority had instituted foreclosure measures that included the forced sale of the properties so that unfortunately the Löfflers would not receive any further monies from their Zurich assets.¹³

¹⁰ ASA, AdR06/VVSt./Kommissare und Treuhänder, file 1538, Letter Hausheer to Schneeweiss, dated 12 June 1939.

¹¹ Letter from Dr. Hausheer to Mr. and Mrs. Löffler, dated 1 October 1939.

¹² Letter from Bliggenstorfer to Arnold Löffler, dated 5 October 1939.

¹³ Letter from Dr. Hausheer to Löffler, dated 13 November 1939, stating that he was unable to transfer the remaining balance SF 371.25 for the reasons stated above.

As noted above, in the meantime Arnold Löffler had engaged Milton Jacobs to obtain the SF 24,000.00 difference between the contract price on the sales of Albisstrasse 95 and 99 and the sales proceeds certified to him by Dr. Hausheer. Dr. Hausheer, in letters to the Löfflers and to Milton Jacobs, both dated 20 November 1939, expressed his indignation at the allegation that he would have diverted these monies to himself. He went on to explain that the purchasers had made the recording of the higher price than actually paid a condition of sale and that he had only conceded this point under the pressure of time: fast closure of the sales had been essential as otherwise these properties would have been caught in the subsequent foreclosure actions and he would not have been able to transfer sales deposits (*Vorerlöse*) to the Löfflers. He further stated that the buyers would be willing to testify to the truth of the matter as would Bliggenstorfer, whose commission also had been based on the actual purchase price of SF 132,000.00 for each of these properties. Further correspondence submitted by the Claimant shows that on 20 November 1939 Arnold Löffler asked Milton Jacobs, again on a contingency fee basis, to assist in selling the three remaining Zurich properties, and that on 20 March 1940 he gave power of attorney to Jacob Widmer in Zurich to act for him and his wife in all matters concerning these three properties. It appears, however, that the Löfflers never withdrew the power of attorney they had given Dr. Hausheer, and the auctions of the three properties, which took place between 7 February and 2 July 1940, all proceeded with Dr. Hausheer representing the owners. The CRT notes, however, that as Arnold Löffler died on 17 July 1940, and as no correspondence post-March 1940 is available, the subsequent nature of the Löfflers' contact with Dr. Hausheer is not clear. The CRT further notes that none of the auctioned properties achieved their estimated market price, nor were the proceeds realized on two of them sufficient to cover the respective outstanding mortgages, so that the second mortgages had to be written down in part.

Some further light on the fate of the Löfflers' real estate holdings in Vienna and Zurich is shed by Otto Rössler's Final Report on his administration of the Löfflers' assets and by the 12 June 1939 letter from Dr. Hausheer to Schneeweiss mentioned above.¹⁴

Rössler's Report contains his detailed expense and income statements with accompanying explanatory text through August 1938 and more summary accounts thereafter. It is not clear whether the change to less detailed reporting was associated with the take-over of the management and later sale of the Löfflers' Vienna real estate by Rischner & Co., a management firm that worked together with *Bank Krentschker & Co. (Krentschker)*, which from August 1938 ran all the Löfflers finances. It will be recalled that *Krentschker* was in charge of the finances of the *Gildemeester Aktion* participants and that Arnold Löffler had signed on to *Gildemeester* in August 1938. *Krentschker* continued to be in charge of the Löfflers' finances after their flights and maintained an emigrants' blocked account (*Emigranten Sperrkonto*) for them. Rössler, in writing about the period after August 1938, says that the Löfflers left the Reich sometime around end-September/early October, but that no one was aware of the when and how. Löffler merely had told his attorney, Dr. Kurz, that he and his family were taking a holiday in Kärnten and that he would again be in touch upon his return to Vienna. Rössler goes on to say that "that return never happened" and that Löffler was "currently already in New York," from where, "according to his attorney, he requested in each communication that an international postage stamp be sent as he did not have the means to conduct [this] correspondence."

¹⁴ ASA, AdR06/VVSt./Kommissare und Treuhänder, 1538, *Schlussbericht (Bericht über die gesamte Tätigkeit) des Treuhänders* (Final Report (Report relating to total activity) of the Administrator), dated 9 April 1941.

Rössler's main pre-occupation at this point, aside from his efforts to collect his fees, was how to cover the Löfflers' flight tax and atonement tax assessments, which he reported to amount to RM 275,000.00 and RM 106,600.00, respectively. He noted that payment of these taxes would be possible only through the sale of all the Löfflers' [Vienna] real estate, taking into account that the properties were heavily encumbered. In passing, Rössler noted that at this stage Löffler still owned his Swiss properties, but that these also would need to be sold as they could not meet their high level of running liabilities. The focus of the remainder of the Report is on the difficulties of sale and the diminution of the value of the Löfflers' Vienna real estate as a consequence of rent regulations that had been promulgated by the Reich's authorities. By mid-1940, however, all these properties had been sold and all liabilities, but one to a builder whose demands were judged to be too high, had been paid. Thus, flight tax, including late payment charges to the amount of RM 317,469.47, was fully paid by 18 June 1940 and atonement tax, to the amount of RM 136,471.05, had been paid by 15 August 1940. Rössler reported these payments in detail, including their sources, all of which shows clearly that all payments were made from assets within the Reich. This is also true for other internal tax payments and expenditures, which were covered in the main from Arnold Löffler's blocked account at *Krentschker*. Rössler's Report includes a detailed accounting of the assets flowing into and out of that account, from the opening transfer to *Krentschker* of his account balance at the *Oesterreichische Creditanstalt Bankverein* on 20 August 1938 (when Arnold Löffler joined the *Gildemeester Aktion*), to a remaining balance of RM 30,073.68 at the time Rössler wrote his Final Report. These accounts as well as Rössler's Report as such make it quite clear that no funds were received from outside the Reich and that all income and expenditure flows came from existing assets within the Reich.

With regard to the Swiss properties, the 12 June 1939 letter from Hausheer to Schneeweiss confirms that the sales of the Löfflers' three Albisstrasse properties left a final balance of only SF 346.95 in favor of the Löfflers. It may be noted that this amount closely approximates the SF 371.25 balance in favor of the Löfflers referred to in Hausheer's letter to Löffler, dated 13 November 1939. Hausheer reported the sales proceeds at SF 132,000.00 each for Albisstrasse 99 and 95, and at SF 115,000.00 for Albisstrasse 103, for a total of SF 379,000.00 (the same as shown in Table 1). Payment of mortgages and sales expenses amounted to SF 360,879.70, leaving net proceeds of SF 18,120.30. From this amount the following payments were made: SF 3,037.15 to pay-off a loan made by Bliggenstorfer to Löffler on 24 September 1938, SF 499.15 to cover Hausheer's positive balance as stated in his account as of 31 December 1938, a transfer to New York of SF 4,425.00 to Ing. Schwarz in repayment of a loan, and a transfer as requested to Arnold Löffler of SF 10,159.00. This then left a balance of SF 346.95 in favor of Arnold Löffler. Hausheer went on to explain that he had not been able to sell the property at Langackerstrasse 68 as he had hoped and that on 5 June 1939 the tax authorities had put a freeze on this property for non-payment of SF 2,500.00 in taxes. He further noted that a sale of the Langackerstrasse 60 and 62 properties had in any event not been possible because they were in arrears and no buyer would take on the outstanding liens.

Post-War Restitution

The documentation on restitution proceedings made available to the CRT shows that Margit Löffler had successfully reclaimed her husband's Austrian real estate holdings mainly through a settlement process that resulted in restitution in kind of some properties and in monetary compensation for the others. Most of these settlements were completed in 1948.

The documentation in hand deals with Margit Löffler's claim for compensation of the discriminatory taxes the family paid (flight tax and atonement tax) and the investigation undertaken by the *Abgeltungsfonds'* research department to ascertain whether any portion of the sale price paid by the aryanizers went to cover part of these taxes, and if so whether these payments had been accounted for in the restitution/compensation settlements on these properties. The Claimant asserted that one of the *Abgeltungsfonds'* documents showed that Margit Löffler had included the Zurich properties in her restitution claims. However, there is no indication that Margit Löffler claimed restitution for the sale and/or proceeds of the Zurich properties or that any of the proceeds of these properties was used to pay discriminatory taxes or otherwise transferred to the Reich.

The CRT notes that the document which the Claimant cites as indicating that a restitution claim was lodged for the Zurich properties actually is the second page of an annotated listing of the real estate assets Arnold Löffler had reported in his 1938 Census declaration. The *Abgeltungsfonds'* researchers had annotated the list to show for each property whether any restitution/compensation had been effected and, if so whether account had been taken of any payments of flight tax or atonement tax the aryanizer might have had to make on behalf of the sellers.¹⁵ As Arnold Löffler had reported his Zurich properties in his 1938 Census declaration, these were also listed by the researchers, but they appeared on the second page of their list, which contained assets that were not of relevance to the assessment of Margit Löffler's claim. Furthermore, the listing of the three Zurich properties as recorded in Arnold Löffler's asset declaration carried the researchers' annotation that they "of course cannot provide any information regarding these properties" ("*Über diese Liegenschaften können wir natürlich keine Auskünfte geben.*") Margit Löffler's restitution claim form shows clearly that she only claimed compensation for flight tax and atonement tax paid by Arnold Löffler for the whole family.¹⁶ Her only other claim included in the documentation available to the CRT concerns her widow's right to Arnold Löffler's State pension. Finally, the CRT notes that whereas the sales of the three Albisstrasse properties are listed in the *Gildemeester Aktion* study by Venus and Wenck, there is no indication that any of their proceeds was transferred into the Reich. It is also noted that the sales prices for Albisstrasse 95 and 99 are listed at SF 132,000.00 each.¹⁷

¹⁵ The result of the researchers' investigation confirmed that the Löfflers paid RM 317,495.17 in flight tax and RM 138,599.63 in atonement tax. Of these, RM 138,599.65 and RM 95,963.95 respectively came from aryanization proceeds that were not accounted for in the restitution/compensation settlements. Accordingly, the *Abgeltungsfonds* decided on 12 June 1962 that the awardable amounts for flight tax and atonement tax were RM 178,895.64 and RM 40,963.95, respectively, for a total of RM 219,859.59. As the post-War relationship between the RM and the Austrian Schilling ("S") had been set at one to one, the basic award thus was for S 219,859.59. Because of the limits of the monies appropriated for the *Abgeltungsfonds*, only a percentage allocation could be made for awards that exceeded a set minimum. Thus, the actual award amount was S 76,950.86 leaving a remainder of S 142,908.73, which might be paid at a later date if resources then permitted. The actual award was to be spread over several payments, with a pre-payment of S 10,000.00. Margit Löffler appealed the award amount, but the appeal was rejected and the decision was reconfirmed on 9 July 1963. The *Abgeltungsfonds'* actual payment orders included in the documentation show that an amount of S 76,950.86 had been paid by 13 March 1963, and that after that date there were two top-ups, each amounting to ten percent of the remainder, the last being made on 14 March 1966, which brought the total up to S 105,532.60.

¹⁶ As these taxes were paid by Arnold Löffler for the family as a whole, and the claim was for compensation of the discriminatory taxes Arnold Löffler had paid, the researchers' listing with respect to the Zurich as well as the Vienna properties included only the properties owned by Arnold Löffler.

¹⁷ Venus and Wenck, pp. 621-622.

The CRT's Analysis

Basis for the Denial

The Claimant interprets the factual evidence set out above to indicate that:

- 1) Centrally, the SF 24,000.00 difference between the price recorded in the sale contracts for Albisstrasse 95 and 99 and the price Dr. Hausheer stated was actually received, had in fact been paid by the buyers and diverted to the Reich by Dr. Hausheer and transferred by the Swiss banks, both acting in collusion with the Nazi authorities.
- 2) The Swiss banks were further culpable because they cancelled mortgages on buildings that actually were being operated profitably. This in turn caused the forced sales of three of these properties.
- 3) More generally, the Claimant posits that the sales of the Zurich property were part of a Nazi master plan to possess themselves of these assets, and Dr. Hausheer and the Swiss banks colluded in the execution of this plan. The plan, according to the Claimant, is set out in Roessler's letter to the Gestapo, which she believes asks for permission to sell the buildings, and is proven by the Gestapo allowing the transfer of SF 4,951.40 to go forward in July 1938. The fact that Dr. Hausheer corresponded in March 1939, at around the time the Albisstrasse sales were taking place, with the Löffler's tax adviser in Vienna, H. Schneeweiss, who had been allowed to continue in his function by Roessler, and that he may not have written to the Löfflers at that time, purportedly showed his collusion with the Nazis as did other correspondence noted on his invoices.
- 4) Finally, the fact that the Löfflers received rental income from the Zurich properties and that Swiss banks held mortgages on these properties indicates that they must have had bank accounts in Switzerland.

The CRT notes that examination of the available documentation does not provide any tangible support for the theories set forth by the Claimant. The facts show that the Zurich properties were heavily encumbered and that, even without loan cancellations the rental income could not cover all the commitments. Even though the quarterly accounts recorded at times a positive balance in favor of the owners, these positive flows could not be sustained for the year as a whole without outside capital injections. Thus, the owners transferred SF 6,000.00 from London in late 1937 and then in July 1939 when SF 4,951.40 from Arnold Löffler's Vienna bank account were released to Dr. Hausheer. Dr. Hausheer's income and expense statements show that a significant part of the latter, SF 2,358.05, went to cover taxes, including a SF 1,442.30 final tax payment for the year 1936. The forward estimates of income and expenses that were provided by Bliggenstorfer for the period 25 May to 30 November 1938, dated 25 May 1938, contain a similar amount for taxes and show an overall deficit, even without any capital repayments. Including scheduled capital repayments, the deficit amounted to over SF 10,000.00, as noted in Roessler's letter of 16 June 1938.¹⁸ It appears that the Claimant based her conclusion regarding the profitability of the Zurich properties on excerpts from the available quarterly income and expense statements. A review of the complete quarterly income and expense documents, however, makes it clear that the buildings were running deficits even before any mortgage loans were called. It may be noted that by the second half of 1937, *i.e.* before the Nazi incorporation

¹⁸ See *supra*, note 6.

of Austria into the Reich in March 1938 (the “*Anschluss*”), the property accounts recorded a deficit of over SF 8,000.00, so that, despite Arnold Löffler’s transfer of SF 6,000.00 from London, the year ended with a SF 2,157.10 balance owing to Dr. Hausheer. The Claimant’s assertion that Dr. Hausheer and the Swiss banks colluded in transferring positive balances to the Nazi regime and thereby caused at least in part the forced sales of three of the properties thus is not supported by the record.

Similarly, the Claimant’s assertion that Dr. Hausheer’s detailed invoices, only a couple of which covering the period November 1938 to 29 April 1939 are available, include listings of correspondence with Dr. Schneeweiss in Vienna, but absence of such listings at the relevant time in 1939 with Arnold Löffler, and inexplicable communications with Bank 7, all indicate collusion with the Nazi regime, is not supported by the documentation. Thus, the reference to a communication with Dr. Schneeweiss dated 1 March 1939 is followed by a reference to a communication with the Löfflers on 4 March 1939. Repeated discussions with Bank 7 and Ernst Goehner clearly would have concerned the fact that Bank 7 held a second mortgage on Langackerstrasse 62, which had been guaranteed by Ernst Goehner and [REDACTED] and which was delinquent as indicated *inter alia* in Arnold Löffler’s letter to Franz Berger, dated 24 October 1938. The CRT notes that, as the auction proceeds of the sale of Langackerstrasse 62 did not cover all the liens on it, the second mortgage had to be written down. In short, the Claimant’s interpretation of these, and other, communication references in Dr. Hausheer’s invoices cannot be sustained by the underlying documentation.

With regard to the SF 24,000.00 difference between the recorded sale price and the price certified as received by Dr. Hausheer for the sales of Albisstrasse 95 and 99, there is no evidence that this amount, as asserted by the Claimant, was transferred by Dr. Hausheer and the Swiss banks to the Reich. Otto Rössler’s Final Report shows clearly that no funds were received from outside the Reich; that payments of discriminatory and other taxes and settlement of outstanding liabilities all were covered by the Löfflers’ assets in Vienna; and that the increase in the Löfflers’ blocked account at *Krentschker* came from net proceeds from domestic income and expense flows and net proceeds from the sales of their assets in Vienna. The CRT notes in this respect that Dr. Hausheer also reported the sale price of Albisstrasse 95 and 99 to Schneeweiss at SF 132,000.00 each, which was the proceeds he had certified to Arnold Löffler. As this letter forms part of the Nazi administrator’s file on the Löfflers in the Austrian archives, it would seem that as far as the Nazi regime was concerned, the price obtained for the two Albisstrasse properties had been as certified by Dr. Hausheer. Whether or not Dr. Hausheer actually received the higher recorded price and arrogated the SF 24,000.00 overage to himself is not germane to the CRT’s assessment, as it was a matter of civil law between the owners and their tax adviser.

As fully discussed above, the Claimant’s assertion that Margit Löffler after the War lodged restitution/compensation claims for both the sale of the Zurich properties and the loss of the proceeds thereof, is based on a misreading of the documentation. There is no indication that any such claims were filed.

Finally, there is no indication that the Löfflers maintained any bank accounts in Switzerland in their names, either in connection with the Zurich properties or otherwise. As to the former, it is clear from Dr. Hausheer’s invoices and his income and expense statements that he managed the financial resources related to the properties. The two recorded capital injections came from

outside Switzerland, and it is clear that Dr. Hausheer transferred funds directly to Robert Schwarz in New York, to whom monies were owing according to the Claimant, and to the Löfflers themselves rather than deposit such funds into accounts maintained by the Löfflers in Switzerland. The CRT notes further that the fact that Swiss banks and other lenders held mortgages on the Zurich properties in no way indicates that the borrowers would have held accounts in any of the involved financial institutions. Furthermore, Dr. Hausheer made the scheduled periodic payments on these loans to the extent that funds were available. It is further noted that continuous shortfalls of funds are indicated not only by Arnold Löffler's reference to the fact that payments on at least two properties were delinquent, but also by Dr. Hausheer's repeated references to communications with the Zurich tax authorities, in which he requested payment delays or tax relief. Finally, in his letter to Schneeweiss, Dr. Hausheer noted that the two delinquent properties, a delinquency also acknowledged by Arnold Löffler himself in October 1938, made them not saleable in the normal course of events; that his effort to sell the remaining property had fallen through; and that that property had subsequently become delinquent as well.

Given the analysis above, the CRT concludes that no award is appropriate in this case.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant's Estate may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant's Estate should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant's Estate should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Certification of the Denial upon Request for Reconsideration

The CRT certifies this Denial upon Request for Reconsideration for approval by the Court.

Claims Resolution Tribunal
17 December 2010