

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3]

in re Account of Arthur Fischer

Claim Numbers: 004654/SJ; 221595/SJ

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Arthur Fischer (the “Account Owner”) at the Kreuzlingen branch of the [REDACTED] (the “Bank”).¹

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 Claimants

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his father, Arthur Fischer, who was born on 3 April 1898 in Olomouc, Czechoslovakia and was married to [REDACTED], née [REDACTED], on 20 February 1927 in Olomouc. Claimant [REDACTED 2] further indicated that his parents had three children: Claimant [REDACTED 2], who was born on 8 October 1928; [REDACTED], who was born on 21 November 1932 and died on 24 August 1936; and [REDACTED 3], who was born on 8 April 1938. Claimant [REDACTED 2] indicated that his father, who was Jewish, was a businessman residing at 102 Lazecka in Olomouc until 1939 when he fled Czechoslovakia to Tel Aviv, Palestine, where he passed away on 7 April 1987. Claimant [REDACTED 2] submitted his parents’ marriage and death certificates; his father’s will, naming Claimant [REDACTED 2] and his brother [REDACTED 3]

¹ Claimant [REDACTED 1] was previously issued an award to separate accounts belonging to Arthur Fischer of Vienna, Austria. See *In re Accounts of Arthur Fischer*, which was approved by the Court on 2 January 2003.

as his sons and heirs; and a declaration made by Claimant [REDACTED 2] indicating that he changed his name from “[REDACTED 2]” to “[REDACTED 2].”

Claimant [REDACTED 2] indicated that he was born on 8 October 1928 in Olomouc. Claimant [REDACTED 2] is representing his brother, [REDACTED 3], who was born on 8 April 1938 in Olomouc.

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father, Arthur Fischer, who was born on 27 November 1889 in Sofia, Bulgaria, and was married to [REDACTED], née [REDACTED], in Vera Cruz, Mexico. Claimant [REDACTED 1] indicated that his father, who was Jewish, was a businessman residing at Gärtnergasse 7 in Vienna I, Austria until 1938, when he fled to Mexico. Claimant [REDACTED 1] stated that his father transferred assets to be held in Switzerland through an intermediary named Jacob Bernheim, a family friend living in Olten, Switzerland. Claimant [REDACTED 1] further indicated that he is the only son of Arthur and [REDACTED] Fischer. Finally, Claimant [REDACTED 1] indicated that his father passed away on 29 November 1969 in Mexico City, Mexico. Claimant [REDACTED 1] submitted his birth certificate, indicating that he is the son of Arthur Fischer, and his parents’ German passports, issued on 30 September 1938 in Vienna.

Claimant [REDACTED 1] indicated that he was born on 6 October 1926 in Vienna, Austria.

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database. According to these records, the Account Owner was Arthur Fischer. The Bank’s records do not contain information about the Account Owner’s domicile. The Bank’s records indicate that the Account Owner held an account, the type of which is not indicated. The Bank’s records indicate that the account was considered dormant by the Bank and was transferred to a suspense account for dormant assets on 13 March 1986 with a balance of 15.00 Swiss Francs (“SF”). The account remains in the Bank’s suspense account.

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, dated and signed on 14 July 1938, concerning the assets of Arthur Fischer, numbered 29912, and [REDACTED], numbered 36736. According to these records, Arthur Fischer, who was born on 27 November 1889, and was married to [REDACTED], née [REDACTED], resided at Gärtnergasse 7, Vienna III. These records indicate that [REDACTED] was owner of a leather accessories store located at Rotenturmstrasse 22, Vienna I, and that her husband, Arthur Fischer, worked at her company.

These records also indicate that Arthur Fischer held insurance policies with *Öst. Versicherung A.G.* in Vienna. These records make no mention of assets held 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Each Claimants' fathers' name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of his claim, Claimant [REDACTED 2] submitted his parents' marriage and death certificates, as well as his father's will, and Claimant [REDACTED 1] submitted his father's German passport. In each case, these documents provide independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 2]'s relative and Claimant [REDACTED 1]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner, and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 2] and Claimant [REDACTED 1] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 2] indicated that the Account Owner was forced to flee Czechoslovakia and Claimant [REDACTED 1] indicated that the Account Owner was forced to flee Austria.

The Claimants' Relationship to the Account Owner

Each 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 Claimants' father. These documents include, in the case of Claimant [REDACTED 2], his father's will, naming Claimant [REDACTED 2] and his brother [REDACTED 3] as his sons and heirs; and

Claimant [REDACTED 1]'s birth certificate, indicating that his father was Arthur Fischer. There is no information to indicate that the Account Owner has surviving heirs other than the party whom Claimant [REDACTED 2] is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account remains in the Bank's suspense account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was, in each instance, their father, and that relationship justifies an Award. Third, the CRT has determined 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 an account of unknown type. The Bank's records indicate that the value of the account as of 13 March 1986 was SF 15.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 665.00, which reflects standardized bank fees charged to the account between 1945 and 1986. Consequently, the adjusted balance of the account at issue is SF 680.00. According to Article 29 of the Rules, if the amount in an unknown type of account was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each of the Claimants has established a plausible relationship to a person with the same name as the Account Owner.

Furthermore, 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. In this case, Claimant [REDACTED 2] is representing his brother, [REDACTED 3]. Accordingly, Claimant [REDACTED 2] and [REDACTED 3] are each entitled to one-quarter of the total award amount, and Claimant [REDACTED 1] is entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
12 January 2005