

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Dr. Walter Friedrich

to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3], [REDACTED 4],
[REDACTED 5], [REDACTED 6], and [REDACTED 7]
represented by Stacey E. Blaustein, Esq.

and to the Estate of Claimant [REDACTED 8]¹
represented by [REDACTED 2]

in re Accounts of Georg Fürth and Auguste Bondy

Claim Numbers: 213623/AV; 213624/AV; 501474/AV; 501482/AV; 601472/AV²

Award Amount: 265,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Georg Fürth and Auguste Bondy and the claims of [REDACTED 8], née [REDACTED] (“Claimant [REDACTED 8]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Friedrich Bondy and Hermann Bondy.³ This Award is to the published account of Georg Fürth (“Account Owner Fürth”), over which Else Fürth (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (“Bank I”) and to the published accounts of Auguste Bondy (“Account Owner Bondy”) (together the “Account Owners”) at Bank I and at the Zurich branch of the [REDACTED] (“Bank II”) (together the “Banks”).

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

¹ [REDACTED 8] (“Claimant [REDACTED 8]”) passed away on 23 March 2001.

² [REDACTED 2] (“Claimant [REDACTED 2]”) submitted a claim, numbered B-00832, on 19 March 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601472.

³ In a decision dated 8 April 2004, the Court approved an Award to Claimant [REDACTED 2] for the accounts of Hermann Bondy and Friedrich Bondy. See *In re Accounts of Hermann Bondy and Friedrich Bondy*.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms identifying Account Owner Fürth as his father, Georg Fürth, who was born to [REDACTED] and [REDACTED], née [REDACTED], on 14 January 1887 in Strakonitz, Bohemia (today Strakonice, Czech Republic), and was married to [REDACTED], née [REDACTED], on 1 May 1919 in Graz, Austria. Claimant [REDACTED 1] stated that his father, who was Jewish, was an industrialist, and worked at *Schraubenfabrik Simmering Rudolf Pick*, a factory manufacturing screws in Vienna, Austria. Claimant [REDACTED 1] specified that his father lived at Grabenstrasse 117 in Graz from 1938 until February 1940, when he fled Austria to Buenos Aires, Argentina. Claimant [REDACTED 1] indicated that his father died on 13 August 1960 in Vienna.

In addition, Claimant [REDACTED 1] identified Account Owner Bondy as his paternal aunt, Auguste (Gusti) Bondy, née Fürth, who was born on 13 June 1884 in Strakonitz, and was married to [REDACTED]. Claimant [REDACTED 1] indicated that [REDACTED] died on 2 May 1919, and that his aunt married Dr. [REDACTED] in April 1922 in Vienna. According to Claimant [REDACTED 1], his aunt, who was Jewish, was an industrialist, and owned *Schraubenfabrik Simmering Rudolf Pick*. Claimant [REDACTED 1] indicated that his aunt lived at Arenbergring 12 in Vienna from 1919 until her death on 24 April 1938.

Claimant [REDACTED 1] submitted his parents' marriage certificate, indicating that Georg Fürth was married to [REDACTED], née [REDACTED], in Graz, and his birth certificate, identifying him as the son of Georg Fürth and [REDACTED]. Claimant [REDACTED 1] further submitted his aunt's death certificate, identifying her as Auguste Bondy, née Fürth, and indicating that she had lived at Arenbergringstrasse 12 in Vienna, that her brother was Georg Fürth, who lived at Grabenstrasse 117 in Graz, that she owned the business *Schraubenfabrik Simmering Rudolf Pick*, and that she died on 24 April 1938. Claimant [REDACTED 1] also submitted his aunt's will, dated 21 December 1935, naming Georg Fürth as her heir and identifying Claimant [REDACTED 1] as her nephew.

Claimant [REDACTED 1] indicated that he was born on 10 June 1923 in Graz.

Claimant [REDACTED 8] and Claimant [REDACTED 2]

Claimant [REDACTED 8] submitted a Claim Form, and her son, Claimant [REDACTED 2], submitted a Claim Form as well as a claim to the Holocaust Claims Processing Office ("HCPO"), identifying Account Owner Bondy as Claimant [REDACTED 8]'s aunt by marriage and Claimant [REDACTED 2]'s great-aunt by marriage, Gusti Bondy, née Fuerth, who was married to Dr. [REDACTED] in April 1922 in Vienna. Claimant [REDACTED 8] and Claimant [REDACTED 2] indicated that their relative's name from a previous marriage was Gusti Pick. Claimant [REDACTED 8] and Claimant [REDACTED 2] explained that [REDACTED] was Claimant [REDACTED]'s paternal uncle, and that he lived in Vienna until 1938.

Claimant [REDACTED 8] and Claimant [REDACTED 2] submitted [REDACTED]'s death certificate, identifying his wife as Gusty Fuerth; their family bible, identifying [REDACTED]'s wife as Gusti Pick, née Fuerth, specifying that she was from Strakonice, and indicating that [REDACTED] and [REDACTED] were brothers; Claimant [REDACTED 8]'s birth certificate, identifying [REDACTED] as [REDACTED 8]'s father; and Claimant [REDACTED 2]'s birth certificate, identifying Claimant [REDACTED 8] as his mother.

Claimant [REDACTED 8] indicated that she was born on 25 August 1910 in Mala Skalice, Austria-Hungary. Claimant [REDACTED 2] indicated that he was born on 19 November 1946 in Pilsen, Czechoslovakia. Claimant [REDACTED 2] is representing his cousins: [REDACTED 6], who was born on 11 January 1929; [REDACTED 5], who was born on 30 December 1932; [REDACTED 4], who was born on 2 April 1936; [REDACTED 7], who was born on 19 October 1944, and [REDACTED 3], née [REDACTED], who was born on 27 December 1944. Claimant [REDACTED 8] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting her entitlement to Swiss bank accounts owned by Herman Bondy.⁴

Information Available in the Banks’ Records

Account Owner Bondy

Bank I

Bank I's record consists of an extract from a register of closed numbered accounts. According to this record, Account Owner Bondy was *Frau* (Mrs.) Auguste Bondy, who resided in Vienna, Austria. This record indicates that Account Owner Bondy held a numbered account under the designation 61777, the type of which is not indicated. Bank I's record further indicates that the account was closed on 1 August 1938 because it did not contain any assets (“*nichts da*”). There is no evidence in Bank I's record that Account Owner Bondy or her heirs closed the account and received the proceeds themselves.

Bank II

Bank II's record consists of a customer card. According to this record, Account Owner Bondy was *Frau* (Mrs.) Auguste Bondy, also known as *Frau* (Mrs.) Gusti Bondy, who resided in Vienna. This record indicates that Account Owner Bondy held two demand deposit accounts, one in Swiss Francs and one in United States Dollars, both opened on 31 October 1935. Bank II's record further indicates that the accounts were closed on 31 March 1938. The amounts in the accounts on the date of their closure are unknown. There is no evidence in the Bank II's record that Account Owner Bondy or her heirs closed the accounts and received the proceeds themselves.

⁴ As noted above, in a decision dated 8 April 2004, the Court approved an Award to Claimant [REDACTED 2] for the accounts of Hermann Bondy and Friedrich Bondy. See *In re Accounts of Hermann Bondy and Friedrich Bondy*.

Account Owner Fürth

Bank I's records consist of a power of attorney form, dated 17 November 1929, and printouts from Bank I's database. According to these records, Account Owner Fürth was Georg Fürth and the Power of Attorney Holder was *Frau* (Mrs.) Else Fürth, who both resided at Elisabethstrasse 3 in Graz, Austria. The Bank's records indicate that Account Owner Fürth held a custody account.⁵

Bank I's records do not show when the account at issue was closed, nor do these records indicate the value of this account. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find this account in Bank I's system of open accounts, and they therefore presumed that it was closed. There is no evidence in Bank I's records that Account Owner Fürth, the Power of Attorney Holder, or their 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 Else Fürth, numbered 47742. These records indicate that Else Fürth was married to Georg Fürth, with whom she lived at Grabenstrasse 117 in Graz. The records further state that Else Fürth and Georg Fürth were assessed atonement tax (*Judenvermögensabgabe*) of 50,400.00 Reichsmark ("RM") and flight tax (*Reichsfluchtsteuer*) of RM 74,528.00 on 3 March 1939. 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 five claims of the Claimants in one proceeding.

⁵ Bank I's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by Bank I at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that Account Owner Fürth held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

Identification of the Account Owners

Account Owner Bondy

Claimant [REDACTED 1] has plausibly identified Account Owner Bondy. Claimant [REDACTED 1]’s aunt’s name and city and country of residence match the published name and city and country of residence of Account Owner Bondy. Claimant [REDACTED 1] identified Account Owner Bondy’s alternative first name as “Gusti,” which matches unpublished information about Account Owner Bondy contained in the Bank II’s records. In support of his claim, Claimant [REDACTED 1] submitted documents, including his aunt’s will and death certificate, providing independent verification that the person who is claimed to be Account Owner Bondy had the same name and resided in the same city as the name and city of residence of Account Owner Bondy. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Auguste Bondy, and indicates that her date of birth was 13 April 1884. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.⁶

Claimant [REDACTED 8] and Claimant [REDACTED 2] have also plausibly identified Account Owner Bondy. Claimant [REDACTED 8] and Claimant [REDACTED 2] identified their relative’s alternative name, which matches unpublished information about Account Owner Bondy contained in Bank II’s records. Claimant [REDACTED 8] and Claimant [REDACTED 2] further identified their relative’s spouse’s city and country of residence, which is consistent with published information about Account Owner Bondy contained in the Banks’ records. Moreover, Claimant [REDACTED 8] and Claimant [REDACTED 2] identified their relative’s maiden name, her birthplace, her spouse’s name, and her name from a previous marriage, all of which matches information provided by Claimant [REDACTED 1] about his aunt. In support of their claims, Claimant [REDACTED 8] and Claimant [REDACTED 2] submitted documents, including [REDACTED]’s death certificate and their family bible, providing independent verification that the person who is claimed to be Account Owner Bondy had the same name recorded in Bank II’s records as the alternative name of Account Owner Bondy.

The CRT notes that the name Auguste Bondy appears only once on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution (the “ICEP List”). The CRT notes that there are no other claims to these accounts.

Account Owner Fürth

Claimant [REDACTED 1] has plausibly identified Account Owner Fürth. Claimant [REDACTED 1]’s father’s name and city and country of residence match the published name and city and country of residence of Account Owner Fürth. Claimant [REDACTED 1]’s mother’s name matches the published name of the Power of Attorney Holder. In support of his claim, Claimant [REDACTED 1] submitted documents, including his parents’ marriage

⁶ The CRT notes that Claimant [REDACTED 1] indicated that his aunt was born on 13 June 1884. However, given that these dates are close in proximity, and that the remaining information provided by Claimant [REDACTED 1] matches the information contained in the database, the CRT concludes that Claimant [REDACTED 1]’s relative and the individual identified in the database are the same person.

certificate, his father's death certificate, and his birth certificate, providing independent verification that the person who is claimed to be Account Owner Fürth had the same name and resided in the same city recorded in Bank I's records as the name and city of residence of Account Owner Fürth. The CRT notes that the name Georg Fürth appears only once on the ICEP List. The CRT notes that there are no other claims to this account.

The CRT notes that Claimant [REDACTED 8] and Claimant [REDACTED 2] have not identified Account Owner Fürth.

Status of the Account Owners as Victims of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that Account Owner Fürth and Account Owner Bondy were Victims of Nazi Persecution. Claimant [REDACTED 1] stated that Account Owner Fürth was Jewish, and that he lived in Graz, Austria, until February 1940, when he fled to Buenos Aires, Argentina. Claimant [REDACTED 1] further stated that Account Owner Bondy was Jewish, and that she lived in Nazi-controlled Austria until her death on 24 April 1938. As noted above, a person named Auguste Bondy was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owners

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Fürth was Claimant [REDACTED 1]'s father, and that Account Owner Bondy was Claimant [REDACTED 1]'s aunt. These documents include Claimant [REDACTED 1]'s birth certificate, identifying Account Owner Fürth as Claimant [REDACTED 1]'s father, and Account Owner Bondy's will, identifying Claimant [REDACTED 1] as her nephew.

Claimant [REDACTED 8] and Claimant [REDACTED 2]

Claimant [REDACTED 8] and Claimant [REDACTED 2] have plausibly demonstrated that they are related to Account Owner Bondy by submitting specific information and documents, demonstrating that Account Owner Bondy was Claimant [REDACTED 8] aunt by marriage and Claimant [REDACTED 2]'s great-aunt by marriage. These documents include Claimant [REDACTED 8]'s and Claimant [REDACTED 2]'s family bible, indicating that Account Owner Bondy was married to [REDACTED] and that [REDACTED] and [REDACTED] were brothers, Claimant [REDACTED 8]'s birth certificate, identifying [REDACTED] as her father, and Claimant [REDACTED 2]'s birth certificate, identifying Claimant [REDACTED 8] as his mother.

The CRT notes that while Claimant [REDACTED 8] and Claimant [REDACTED 2] did not demonstrate that they are related to Account Owner Fürth, the information provided by Claimant [REDACTED 1] indicates that Account Owner Fürth was the brother of Claimant [REDACTED 8]'s aunt by marriage and Claimant [REDACTED 2]'s great-aunt by marriage.

The Issue of Who Received the Proceeds

Account Owner Bondy

Given that Account Owner Bondy died in Vienna on 24 April 1938, after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”); that Account Owner Bondy’s demand deposit accounts were closed on 31 March 1938, and that her account of unknown type was closed on 1 August 1938; that there is no record of the payment of Account Owner Bondy’s accounts to her; that Account Owner Bondy and her heirs would not have been able to obtain information about her accounts after the Second World War from the Banks 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 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 Account Owner Bondy or her 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.

Account Owner Fürth

Given that Account Owner Fürth fled his country of origin due to Nazi persecution; that there is no record of the payment of the payment of Account Owner Fürth’s account to him nor any record a date of closure of the account; that Account Owner Fürth and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 Account Owner Fürth, the Power of Attorney Holder, or their heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Fürst was his father and that Account Owner Bondy was his aunt and those relationships justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts. Further, the CRT notes that Claimant [REDACTED 1], as Account Owner Fürth’s son and the nephew of Account Owner Bondy, has a better entitlement to the accounts than Claimant [REDACTED 8], Claimant [REDACTED 2] and Claimant [REDACTED 2]’s cousins, who are all related to the Account Owners by marriage.

Amount of the Award

In this case, Account Owner Fürth held a custody account, and Account Owner Bondy held two demand deposit accounts and an account of unknown type.

With regard to the account of unknown type, Bank I's record shows that the account did not contain any assets. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs ("SF"), 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 CRT finds it unlikely that Account Owner Bondy would have held an account devoid of assets. The CRT has therefore determined that Bank I's notation ("*nichts da*") does not constitute sufficient plausible evidence to the contrary to outweigh the Article 29 presumptions. The CRT therefore considers the value of this account 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. Consequently, the award amount for the account of unknown type is SF 49,375.00.

With regard to the remaining accounts, the Banks' records do not indicate their values. 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 ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of one custody account and two demand deposit accounts is SF 17,280.00. 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 an award amount of SF 216,000.00.

Consequently, the total award amount is SF 265,375.00.

Division of the Award

As indicated above, Claimant [REDACTED 1] has a better entitlement to the accounts than Claimant [REDACTED 8], Claimant [REDACTED 2] and Claimant [REDACTED 2]'s cousins, whom he represents. Accordingly, Claimant [REDACTED 1] is solely entitled to 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
31 August 2005