

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ruth Eva Souza Lima

in re Account of Rudolf Marchfeld

Claim Number: 500809/ES

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Ruth Eva Souza Lima, née Jokl, (the “Claimant”) to the published account of Rudolf Marchfeld (the “Account Owner”), over which Rosa Marchfeld (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner and the Power of Attorney Holder as her maternal grandparents, Rudolf Marchfeld and Rosa Marchfeld, née Steiner, who were married in Vienna, Austria. The Claimant stated that her grandparents had one daughter, Emy Jokl, née Marchfeld, the Claimant’s mother. The Claimant stated that her grandfather, who was Jewish, had an office and a shop selling cotton textiles at Hahngasse 7, Vienna IX. The Claimant indicated that her grandparents resided at Kronesgasse 6 in Vienna until 1939, when they were forced to flee to China via Yugoslavia and Italy. The Claimant stated that her grandfather died in 1940 in Shanghai, China, that her grandmother died in May 1962 in Sao Paulo, Brazil, and that her mother died on 19 December 1999 in Sao Paulo. The Claimant stated that she is her grandparents’ only heir. The Claimant submitted her grandmother’s Austrian passport, issued in Vienna and bearing her grandmother’s signature; her grandmother’s residence certificate, showing that she was resident in Vienna; her mother’s Austrian passport, indicating the Claimant is her daughter; her mother’s birth certificate, showing that Emy Marchfeld was born in Vienna and that her parents were Rudolf and Rosa Marchfeld, née Steiner; her mother’s residence certificate, stating that she was resident in Vienna; and the Claimant’s birth certificate, stating that her parents were Franz Josef and Emy Jokl, née Marchfeld, who resided at Kronesgasse 6, Vienna.

The Claimant stated that she was born on 8 June 1935 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form dated 30 December 1927 and printouts from the Bank's database. According to these records, the Account Owner was Rudolf Marchfeld and the Power of Attorney Holder was Rosa Marchfeld, who resided at Hahngasse 7, Vienna IX, Austria. The Bank's records indicate that the Account Owner held a custody account.¹

The Bank'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 the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner, 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, and/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 Rudolf Marchfeld, numbered 5246 and the assets of Rosa Marchfeld, née Steiner, numbered 4705. These documents show that Rosa Marchfeld was Rudolf Marchfeld's wife, that they resided at Kronesgasse 6, Vienna and that they had a daughter named Emma. The 1938 Census records further show that Rudolf Marchfeld owned a business dealing in cotton and wool products, which was located at Hahngasse 7 in Vienna, and was valued at 49,600.00 Reichsmark ("RM"). This business was forcibly liquidated and the proceeds were used to cover liquidation costs, "flight tax" (*Reichsfluchtsteuer*) amounting to RM 19,901.00 and the Emma Marchfeld's emigration costs. The records also indicate that Rudolf and Rosa Marchfeld's house at Kronesgasse 6, which had a gross worth of RM 40,600.00, was sequestered and that the appointed trustee stated that any proceeds were to cover in the first instance the Marchfeld's atonement tax (*Judenvermögensabgabe*) assessment amounting to RM 7,800.00. Finally, the documentation includes correspondence between the *Vermögensverkehrsstelle* and the Secret Police leading up to the withdrawal of citizenship from the Marchfeld family and consequent confiscation of all assets belonging to Rudolf and Rosa Marchfeld and their child, this final document being dated 27 March 1941. While Rosa Marchfeld's asset declaration explicitly

¹ The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank 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 the Account Owner 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.

states that she owns no assets held abroad, the records make no mention of assets held by Rudolf Marchfeld in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's grandfather's name, city, and country of residence match the published name, city, and country of residence of the Account Owner. The Claimant's grandmother's name matches the published name of the Power of Attorney Holder. The Claimant identified the Account Owner's business address, which matches unpublished information about the Account Owner contained in the Bank's records and in the 1938 Census record.

In support of her claim, the Claimant submitted documents, including her grandmother's passport, issued in Vienna; her grandmother's residence certificate, showing that her name was Rosa Marchfeld and that she resided in Vienna; and her mother's birth certificate, showing that she was born in Vienna and that her parents were Rudolf and Rosa Marchfeld, née Steiner. These documents provide independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owner and of the Power of Attorney Holder.

The Claimant's grandmother's Austrian passport also contains a sample of the Claimant's grandmother's signature, which matches the signature of the Power of Attorney Holder contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Rudolf Marchfeld and a person named Rosa Marchfeld, and indicates that they resided in Vienna, Austria, which matches the information about the Account Owner and the Power of Attorney Holder provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this 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 that in 1939 he was forced to flee Austria to China with his family.

As noted above, persons named Rudolf and Rosa Marchfeld were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her grandfather. These documents include the Claimant's birth certificate, showing that her parents were Franz Josef and Emy Jokl, née Marchfeld; and her mother's birth certificate, showing that her parents were Rudolf and Rosa Marchfeld, née Steiner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi-controlled Austria; that the Account Owner fled to China in 1939; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner's heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, 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 grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 162,500.00.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on 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).

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
9 March 2005