

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant George Conrad Robitschek
represented by Walter Friedrich

in re Accounts of Georg Konrad Robitschek and Edith Antoinette Robitschek

Claim Number: 501640/MI/AC

Award Amount: 914,611.13 Swiss Francs

This Certified Award is based upon the claim of George Conrad Robitschek, formerly Georg Konrad Robitschek, (the “Claimant”) to the published account of Georg Konrad Robitschek and Edith Antoinette Robitschek. This award is to the published and unpublished accounts of Georg Konrad Robitschek (“Account Owner Georg Robitschek”) and Edith Antoinette Robitschek (“Account Owner Edith Robitschek”) (together the “Account Owners”) at 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 Claimant

The Claimant submitted a Claim Form identifying Account Owner Georg Robitschek as himself, George Robitschek, and Account Owner Edith Robitschek as his sister. The Claimant stated that he was born on 23 December 1914 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], in 1941 in Vienna. The Claimant further stated that he was an electronics engineer. The Claimant stated that until 1939, he resided at Sterngasse 5/6 in Vienna. The Claimant explained that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), he was forced to flee Vienna in 1939 because he was Jewish. The Claimant indicated that he was not aware of the CRT or of the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), until 13 September 2005, when

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Georg Robitschek and Edith Robitschek are each indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s record evidences the existence of one joint account. The documents available at the Austrian State Archive, however, indicate that Georg Robitschek and Edith Robitschek jointly held two accounts.

he was contacted by his representative, Walter Friedrich. In a telephone conversation with the CRT on 20 December 2005, the Claimant indicated that Account Owner Edith Robitschek passed away a few years ago. The Claimant further indicated that he does not have his sister's death certificate.

The Claimant submitted documents in support of his claim, including: excerpts from records from the Austrian State Archive, which are described more fully below, and a copy of his marriage certificate, dated 23 August 1979, indicating that George Conrad Robitschek was born on 23 December 1914 in Austria, that he was an electronics engineer, and that he had been previously married.

Information Available in the Bank's Record

The Bank's record consists of a list of account owners. According to this record, the Account Owners were Georg Konrad Robitschek and Edith Antoinette Robitschek, both of whom resided in Vienna, Austria. The Bank's record indicates that the Account Owners held a joint account, numbered 11394, the type of which is not indicated.

The Bank's record does not indicate when the account was closed, nor does it indicate its value. 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 record that the Account Owners 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 Georg Konrad (Conrad) Robitschek, numbered 47410, and dated 29 July 1938, indicating that he was born on 23 December 1914 and that he lived at Sterngasse 5 in Vienna I. According to these records, Georg Robitschek owned a significant amount of domestic and foreign assets, including assets held in Switzerland. The records state further that by 20 March 1939 he had paid atonement tax (*Judenvermögensabgabe*) of RM 5,000.00 and was assessed flight tax (*Reichsfluchtsteuer*) of RM 18,780.00 on total assets of RM 80,120.00.

These records also include a copy of an agreement dated 8 April 1933 between *Frau* (Mrs.) [REDACTED], residing in Shanghai, China, and the Bank, under which [REDACTED] opened a custody account and a demand deposit account for the benefit of Georg Konrad Robitschek and

Fraülein (Miss) Edith Antoinette Robitschek. According to these records, the interest and capital gains generated by the assets in the custody account were to be placed in the demand deposit account, which had a balance of approximately 5,000.00 United States Dollars (“US \$”) as of the date of the agreement. The agreement further stipulates that Georg Konrad Robitschek and Edith Robitschek could not access or dispose of the custody account until they completed their thirtieth year of age, and names people who were in charge of managing the accounts on their behalf. According to this agreement, Georg Konrad Robitschek was born on 23 December 1914, and Edith Antoinette Robitschek was born on 23 September 1913. The agreement includes a survivorship clause, whereby, if either Account Owner died, the other Account Owner automatically became the sole owner of both accounts.² Correspondence in the file indicates that [REDACTED] was the aunt of Georg and Edith Robitschek, and that the assets constituted the inheritance left to the two siblings by their grandfather.

The 1938 Census records give a detailed list of the securities held in the joint custody account, indicating their total market value, as of 27 April 1938, as 64,708.00 Swiss Francs (“SF”). This list was provided by the Bank:

- a) *3% Funding Bds. K'kasse deutsche Auslandschld Serie A* with a nominal value of RM 200.00 and a market value of SF 55.00 per RM 100.00, totaling SF 110.00;
- b) *3% Teilgutsch. K'kasse deutsche Auslandschld Ser. A, 1.7.36.*, with a nominal value of RM 162.40 and a market value of SF 55.00 per RM 100.00, totaling SF 89.00;
- c) *3% Funding Bds. K'kasse deutsche Auslandschld. Serie B* with a nominal value of RM 200.00 and a market value of SF 55.00 per RM 100.00, totaling SF 110.00;
- d) *3% Teilgutsch. K'kasse deutsche Auslandschld Ser. B, 1.1.37.*, with a nominal value of RM 52.00 and a market value of SF 55.00 per RM 100.00, totaling SF 29.00;
- e) *Obl. 4% Armour & Co of Delaware due 1955 Ser. B*, with a nominal value of US \$2000.00 and a market value of 94% at SF 4.35 per US dollar, totaling SF 8178.00;
- f) *5% S'Kom. Obl. Landeshypothekenanstalt f. Niederösterr.* with a nominal value of 2375.00 Austrian Schilling (“S”); it is noted by the Bank that a market value did not exist for this bond in April 1938;
- g) *4% Funding Bds. K'kasse deutsche Auslandschld 1B* with a nominal value of SF 10,000.00 and a market value of 51 percent, totaling SF 5,100.00;
- h) *Obl. 5% Oesterreich 1934/59 Garant. Konv. Anl. Schweiz. Tr* with a nominal value of SF 5000.00 and a market value of 44.5 percent, totaling SF 2,225.00;
- i) 50 shares of *Akt. E Cia. Hispano-Americana de Electr. à Ptas. 100.00* with a market value of SF 235.00 per share, totaling SF 11,750.00;
- j) 20 shares of *\$6.00 cum. pref. shares North American Edison Co.* with a market value of US \$88.00 per share at SF 4.35 per US dollar, totaling SF 7,656.00;
- k) 40 shares of *6% cum. pref. shares North American Co. a \$50.00* with a market value of US \$48.00 per share at SF 4.35 per US dollar, totaling SF 8,352.00;
- l) 100 shares of *United Corporation* with a market value of US \$2.50 per share at SF 4.35 per US dollar, totaling SF 1,087.00;
- m) 50 shares of *General Foods Corp* with a market value of US \$26.50 per share at SF 4.35 per US dollar, totaling SF 5,763.00;

² “Im Falle des Ablebens eines der beiden Benefiziaten fällt das ganze Wertschriftendepot sowie die darauf erlösten Zinsen und auf Geldkonto geführten Beträge dem anderen Teile zur Gänze automatisch zu.”

- n) 40 shares of \$6.00 cum. pref. shares American Power & Light Co. with a market value of US \$27.00 per share at SF 4.35 per US dollar, totaling SF 4,698.00;
- o) 100 shares of Springs Mines Ld. Johannesburg a £5.00 with a market value of 28.00 British Shilling³ per share at SF 21.69 per British Pound (“£”), totaling SF 3,036.00;
- p) 500 shares of Goebel Brewing Co. a \$1.00 with a market value of US \$3.00 at SF 4.35 per US dollar, totaling SF 6,525.00.

These 1938 Census records do not indicate the value of the demand deposit account as of 27 April 1938. A letter from the Property Control Office (*Vermögensverkehrsstelle*) to Georg Konrad Robitschek, dated August 1938, indicates that the Property Control Office ordered that the securities in the custody account be sold to the Office of the Reichsbank (*Reichsbankstelle*). In an explanation attached to his Census declaration, Georg Robitschek explains that his sister resided in the United States and that he and his sister, who were still under the age of 30, were not entitled to dispose of the securities listed in the declaration.⁴ A letter from the Property Control Office to the Main Office of the Reichsbank (*Reichsbankhauptstelle*), dated 13 October 1938, indicates that because the case involved a high value custody account, there should be a possibility of a transfer of the custody account from the Bank to the Reich with assistance from the Foreign Exchange Control Office (*Devisenstelle*).⁵

The CRT’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant’s and his sister’s names and cities and countries of residence match the published names and cities and countries of residence of the Account Owners. Furthermore, the CRT notes that information provided by the Claimant matches information contained in 1938 Census records, which he submitted.

In support of his claim, the Claimant submitted copies of documents, including records from the Austrian State Archive and his marriage certificate, providing independent verification that the person who is claimed to be Account Owner Georg Robitschek had the same name and resided in the same town recorded in the Bank’s record as the name and city of residence of Account Owner Georg Robitschek.

³ The CRT notes that a British Shilling was worth 1/20 of a British Pound (“£”), so that 28 Shilling was equivalent to £1.40.

⁴ The German text reads: “*Der in Abschrift vorgelegte Hinterlegungsvertrag kennzeichnet die rechtliche Stellung des unter IV a angeführten Kapitalsvermögens. Mein Eigentumsanspruch auf dieses Vermögen ist bedingt und noch nicht fällig. Es kommt in Betracht die Hälfte der dortselbst angeführten Wertpapiere, an denen ich und meine in Amerika lebende Schwester Edith Robitschek je zur Hälfte anwartschaftsberechtigt sind. Eine Verfügungsberechtigung über dieses Vermögen steht weder meiner Schwester noch mir zu.*”

⁵ The German text reads: “*Da es sich aber um ein größeres Wertpapierdepot handelt, müßte es doch möglich sein, mit Hilfe der Devisenstelle die Transferierung des Depots von der Eidgenössischen Bank A.G., Zürich, nach dem Deutschen Reiche zu veranlassen, damit die Papiere sichergestellt bleiben. Laut Testament des verstorbenen Großvaters sind die beiden Enkel erst mit Erreichung des 30. Lebensjahres verfügungsberechtigt. Dieser Fall tritt erst 1944 ein.*”

The CRT notes that the names Georg Robitschek and Edith Robitschek each appear only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Georg Robitschek was a Victim of Nazi Persecution. The Claimant stated that he is Jewish and that he lived in Nazi-controlled Austria. The Claimant further stated that he was forced to flee Vienna in 1939.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is Account Owner Georg Robitschek and that he is Account Owner Edith Robitschek's brother, by submitting specific information and documents. These documents include copies of records from the Austrian State Archive and his marriage certificate. The bank agreement dated 8 April 1933, included in the 1938 Census records, stipulates that Account Owner Georg Robitschek is the sole heir to Account Owner Edith Robitschek's portion of the jointly held accounts.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that Account Owner Georg Robitschek reported the accounts in the 1938 Census; that Nazi correspondence indicates that they sought to transfer the Account Owners' assets at the Bank to the Reich; that Account Owner Georg Robitschek lived in Austria until he was forced to flee in 1939, and therefore could not have repatriated the accounts without losing ultimate control over their proceeds; and given the application of Presumptions (d), (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 Owners or their heirs.

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 Owners were himself and his sister, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one joint custody account and one joint demand deposit

account. The 1938 Census records indicate that the market value of the securities in the custody account as of 27 April 1938 was SF 64,708.00. However, according to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss.

Accordingly, to determine whether market value or nominal value is the appropriate measure to determine the award amount, it must be determined whether the bonds listed above were in default. According to Hjalmar Schacht's explanation of the institution and the working of the *Konversionskasse für deutsche Auslandsschulden* as given in his autobiography, and provided by Special Master Junz, the bonds listed above in letters (a) through (d) were in default.⁶ These bonds, then, are to be valued at their market value. In his 1938 Census declaration, Account Owner Georg Robitschek indicated that four of the bonds had a market value of SF 55.00 per RM 100.00. However, according to *Moody's Government Manual for 1940*, in 1938 the bonds were valued at 35.5 percent.⁷ At this price, the bonds had market values as follows:

- *3% Funding Bds. K'kasse deutsche Auslandschld Serie A* with a nominal value of RM 200.00 and a market value of RM 71.00, which was equivalent to SF 124.68;
- *3% Teilgutsch. K'kasse deutsche Auslandschld Ser. A, 1.7.36.*, with a nominal value of RM 162.40 and a market value of RM 57.65, which was equivalent to SF 101.23;
- *3% Funding Bds. K'kasse deutsche Auslandschld. Serie B* with a nominal value of RM 200.00 and a market value of RM 71.00, which was equivalent to SF 124.68; and
- *3% Teilgutsch. K'kasse deutsche Auslandschld Ser. B, 1.1.37.*, with a nominal value of RM 52.00 and a market value of RM 18.46, which was equivalent to SF 32.42.

Another German bond, *4% Funding Bds. K'kasse deutsche Auslandschld 1B*, listed at letter (g) above, was similarly in default. Account Owner Georg Robitschek declared the market value of that bond to be 51 percent. In this case, the CRT notes that Account Owner Georg Robitschek

⁶ According to Schacht's autobiography, under the Reich law of 9 June 1933, when Germany ceased to make payments on its external debt, it established a clearing office (*Koka*), into which German corporations and other municipal debtors were to make payments in Reichsmark. If Germany's earnings of foreign exchange were sufficient, these securities would eventually be redeemed in foreign exchange. To support the price of the securities, the *Deutsche Golddiskontbank (Degeo)* was authorized to purchase *Koka* bonds at a price of 50 percent. Schacht notes explicitly that the suspension of interest payments ("*Aufhören der Zinszahlung*") constituted a considerable loss to external lenders. Furthermore, the proceeds of *Degeo* purchases could not be used freely, but applied only to payments for German exports. Hjalmar Schacht, *76 Jahre meines Lebens* Bad Wörishofen: Kindler und Schiermeyer, 1953, pp. 398 – 399. The situation as described by Schacht constitutes a default situation as defined above in the Guidelines issued by Special Master Junz. The CRT notes that Hjalmar Schacht (1877 - 1970) was a German banker and politician. He was president of the German Reichsbank from 1923 to 1930. Hitler reappointed him Reichsbank president on 16 March 1933. In August 1934, he was named Reich Economic Minister and joined Hitler's cabinet. He resigned as Economic Minister in November 1937, but remained in Hitler's cabinet until 1943 as minister without portfolio. On 20 January 1939, Hitler removed him from the Reichsbank presidency. Schacht later was in contact with members of the group that attempted to assassinate Hitler on 20 July 1944. Because of this contact, Schacht was arrested and interned in Ravensbrück and Flossenbürg until the end of the War. He was tried and acquitted at the Nuremberg War Crimes Tribunal.

⁷ *Moody's Government Manual for 1940*, p. 1,832.

would have acted against his own interests if he had declared that the bond was worth more than it actually was. Because it is unlikely that he would have made such a statement against interest, the CRT determines that the market value of the bond was 51 percent, rather than 35.5 percent, as cited in *Moody's*. The bond, with a nominal value of SF 10,000.00, is therefore valued at SF 5,100.00 for the purposes of this Award.

The *Obl. 4% Armour & Co of Delaware due 1955 Ser. B*, listed under letter (e) above, was not in default. As noted above, the bond had a nominal value of US \$2000.00 and a market value of 94 percent. Because the nominal value was higher than the market value, and the bond was not in default, and consistent with Special Master Junz's Guidelines, the nominal value shall be used to value these bonds. Accordingly, the CRT determines the value of these bonds to be US \$2,000.00, which was equivalent to SF 8,740.00.

With respect to the remaining two bonds, *5% S'Kom. Obl. Landeshypothekenanstalt f. Niederösterr.* and *Obl. 5% Oesterreich 1934/59 Garant. Konv. Anl. Schweiz. Tr.*, listed in letters (f) and (h), respectively, above, these bonds were not in default prior to the *Anschluss*.⁸ Because the nominal values were above the market values, and because the bonds were not in default prior to the *Anschluss*, and consistent with Special Master Junz's Guidelines, these bonds shall be valued at nominal value for the purposes of this Award. Accordingly, the *5% S'Kom. Obl. Landeshypothekenanstalt f. Niederösterr.* is determined to have a value of S 2,375.00 which was equivalent to SF 2,780.33, and the *Obl. 5% Oesterreich 1934/59 Garant. Konv. Anl. Schweiz. Tr.* is determined to have a value of SF 5,000.00.

The market values for the shares of stock in the custody account are taken from Account Owner Robitschek's 1938 Census declaration. In determining the Award amount, however, the CRT applies the official exchange rates it uses for converting currencies in all other decisions.

- 50 shares of *Akt. E Cia. Hispano-Americana de Electr. à Ptas. 100.00* with a market value of SF 235.00 per share, totaling SF 11,750.00;
- 20 shares of *\$6.00 cum. pref. shares North American Edison Co.* with a market value of US \$88.00 per share for a total of SF 7,691.20;
- 40 shares of *6% cum. pref. shares North American Co. a \$50.00* with a market value of US \$48.00 per share for a total of SF 8,390.40;
- 100 shares of *United Corporation* with a market value of US \$2.50 per share for a total of SF 1,092.50;
- 50 shares of *General Foods Corp* with a market value of US \$26.50 per share for a total of SF 5,790.25;
- 40 shares of *\$6.00 cum. pref. shares American Power & Light Co.* with a market value of US \$27.00 per share for a total of SF 4,719.60;

⁸ The *Neue Freie Press* lists the price of the *5% S'Kom. Obl. Landeshypothekenanstalt f. Niederösterr.* at 100 percent on 15 December 1937, 31 December 1937, and 14 January 1938. With respect to the *Obl. 5% Oesterreich 1934/59 Garant. Konv. Anl. Schweiz. Tr.* bond, according to *Compass*, at the end of 1937 the bond was quoted in London at 85.5 percent and in Amsterdam at 94.5 percent. *Compass Jahrbücher: Deutsches Reich, Land Oesterreich* (1940), p. 155.

- 100 shares of *Springs Mines Ld. Johannesburg* a £5.00 with a market value of 28.00 British Shilling⁹ per share at SF 21.69 per British Pound (“£”), for a total of SF 3,036.60;
- 500 shares of *Goebel Brewing Co. a \$1.00* with a market value of US \$3.00 per share for a total of SF 6,555.00.

Thus, the combined value of the bonds and equities held in the custody account as of 27 April 1938 was SF 71,028.89.¹⁰

According to the copy of the deposit contract contained in the 1938 Census files, the value of the demand deposit account was approximately US \$5,000.00 as of 8 April 1933. As noted above, the deposit contract specifies that the demand deposit account was to receive deposits of interest and capital gains due on the securities in the custody account. However, it is not clear how much money was in the demand deposit account as of 27 April 1938. The CRT therefore determines that, for the purposes of this award, the demand deposit account shall be treated as an account of unknown value. 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 demand deposit account was SF 2,140.00.

The combined balance of the two accounts was therefore SF 73,168.89. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 914,611.13.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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 December 2005

⁹ The CRT notes that a British Shilling was worth 1/20 of a British Pound (“£”), so that 28 Shilling was equivalent to £1.40.

¹⁰ The CRT uses official exchange rates when making currency conversions.