

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Walter Friedrich

in re Accounts of Arnold Eigenfeld

Claim Number: 501804/NB

Award Amount: 135,953.13 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published and unpublished accounts of Arnold Eigenfeld (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).¹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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her paternal uncle by marriage, Arnold (Abraham) Eigenfeld, who was born on 27 December 1890 in Lemberg, in the Austrian Kingdom of Galicia and Lodomeria (now Lviv, the Ukraine). The Claimant stated that her paternal aunt, [REDACTED], née [REDACTED], who was born on 17 February 1893, married Arnold Eigenfeld on 15 September 1916 in Vienna, Austria. According to the Claimant, her aunt and uncle, who were Jewish, had no children.

The Claimant explained that her uncle owned a paint color and lacquer wholesale business, (*Grosshandel in Lacken und Farben*) located at Rauhenteingasse 5, in Vienna. According to the Claimant, her uncle and aunt lived at Waltergasse 6/3/18 in Vienna from 1926 to 17 January 1939. The Claimant stated that in January 1939, Arnold and [REDACTED] Eigenfeld fled to Switzerland, and later emigrated to Israel, where they passed away in 1968 and 1980, respectively.

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”), Arnold Eigenfeld is listed as having one account. Upon careful review, the CRT has determined that the Bank’s records evidence the existence of two additional accounts, for a total of three accounts owned by Arnold Eigenfeld.

According to the Claimant, [REDACTED], née [REDACTED], had three siblings, namely [REDACTED] (the Claimant's father); [REDACTED]; and [REDACTED].

In support of her claim, the Claimant submitted copies of: (1) the Claimant's family tree, which indicates that Arnold Eigenfeld was [REDACTED]'s paternal uncle by marriage; (2) her own birth certificate, which indicates that [REDACTED] was born on 7 February 1923, and that her parents were [REDACTED] and [REDACTED] who resided in Vienna at Edelhofgasse 7; (3) [REDACTED]'s death registration document (*Todfallsaufnahme*) dated 13 December 1926, which indicates that he had four children: [REDACTED], née [REDACTED], who was residing in Vienna at Waltergasse 6, [REDACTED] who was residing in Vienna at Edelhofgasse 7, [REDACTED], and [REDACTED]; (4) copies of two 1938 asset registration forms, numbered 23437 and 35485, completed by her uncle and aunt on 14 July 1938, which indicate that Arnold Eigenfeld and [REDACTED] were married, that Arnold Eigenfeld owned a paint color and lacquer wholesale business, and that they resided in Vienna at Waltergasse 6/18 (these records are described in more detail below); and (5) the Claimant's marriage certificate, which indicates that her maiden name is [REDACTED].

The Claimant indicated that she was born on 7 February 1923 in Vienna, Austria.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a printout from the Bank's database. According to these records, the Account Owner was Arnold Eigenfeld, who resided in Vienna, Austria. The Bank's records indicate that the Account Owner held three accounts: one custody account numbered L50303; one safe deposit box numbered 1272; and one demand deposit account. According to the Bank's records, the custody account was closed on 16 January 1939, the safe deposit box was closed on 25 March 1939, and the demand deposit account was closed on 20 June 1948 to an unknown party.

The value of the safe deposit box is unknown. According to the Bank's records, the amount in the demand deposit account on the date of its closure was 1,208.06 Swiss Francs ("SF").

There is no evidence in the Bank's records that the Account Owner or his heirs closed these accounts and received the proceeds themselves.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within the custody account.

These documents indicate that at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- *2½% Hafengesellschaft Haidar-Pascha von 1902* bonds with a face value of SF 30,500.00 which were sold on 11 January 1939; and
- 12 *Obligationen & Aktien-Zinsen Hafengesellschaft Haidar-Pascha* certificates, with a face value of SF 500.00 per certificate, which were sold on 11 January 1939.

There is no evidence in the Bank's records that the Account Owner or his heirs closed this 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 Arnold Eigenfeld, numbered 23437. These records indicate that Arnold Eigenfeld was born on 27 December 1890, that he was married to [REDACTED], née [REDACTED], that they resided at Waltergasse 6/18, Vienna, Austria, and that he owned a paint color and lacquer wholesale business (*Grosshandel in Lacken und Farben*).

According to these documents, Arnold Eigenfeld registered with the Nazi authorities that he owned the following securities denominated in Swiss Francs: *2½% Hafengesellschaft Haidar-Pascha von 1902* bonds with a face value of SF 30,500.00, and 12 *Obligationen & Aktien-Zinsen Hafengesellschaft Haidar-Pascha* certificates with a face value of SF 6,000.00. These documents also indicate that he owned other securities denominated in Austrian Shillings ("AS"), worth AS 1,050.00. There is no information in these records concerning the location where these securities were held.

Additionally, these records indicate that as of 27 April 1938, Arnold Eigenfeld also held currency in the amount of SF 3,705.00 at the Bank.

The records further contain a letter, dated 8 August 1938, from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt."), ordering Arnold Eigenfeld to sell his foreign securities to the *Reichsbank*. The records further indicate that by the end of September 1938, Arnold Eigenfeld had liquidated his business and vacated its premises.

In the records of the Austrian State Archive, there are also documents concerning the assets of [REDACTED], numbered 35485. These documents indicate that [REDACTED] was born on 17 February 1893, that she resided at Waltergasse 6/18, Vienna and that she was married to Arnold Eigenfeld. According to these documents, [REDACTED] owned stocks and bonds worth RM 8,365.32 and one bank account at the Vienna branch of the *Oesterreichische Kreditanstalt*, containing RM 3,263.45 as of 12 November 1938. The records further contain a letter, dated 8 August 1938, from the VVSt Office, ordering [REDACTED] to sell her foreign securities to the *Reichsbank*.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's uncle's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including copies of 1938 Census records, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that a database containing the names of victims of Nazi persecution includes a person named Arnold Eigenfeld, and indicates that his date of birth was 27 December 1890, that he was married to [REDACTED], and that he resided at Waltergasse 6/18, Vienna, which matches the information about the Account Owner 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 these accounts.

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 indicated that the Account Owner was Jewish, that he lived in Austria after its incorporation into the German Reich in March 1938 (the "Anschluss"), and that he fled Austria for Switzerland in 1939. The CRT notes that the Account Owner and his wife were required to register their assets pursuant to the 1938 Census.

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 the Claimant's paternal uncle by marriage. These documents include the Claimant's family tree, her own birth certificate, [REDACTED]'s death registration document, and copies of her relatives' 1938 Census records. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that custody account L50303 was closed on 16 January 1939. Given that there is no record of payment of the Account Owner's custody account to him; that he held assets at the Bank which were reported in his 1938 Census; that the Account Owner also reported to the Nazi authorities that he owned securities which were held in custody account L50303; that the Account Owner did not flee Austria until at least six months after submitting his 1938 Census

form, during which time the Nazi authorities ordered him to sell his foreign securities to the *Reichsbank*; that the Account Owner and his 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 (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 the Account Owner or his 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.

The CRT notes that the Bank's records indicate that the safe deposit box account was closed on 25 March 1939, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts 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, (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs.

The CRT further notes that the demand deposit account was closed on 20 June 1948, three years after the end of hostilities in Europe. However, the CRT notes that in his 1938 asset declaration, the Account Owner reported owning currency in the amount of SF 3,705.00 at the Bank. Based upon the manner in which the Account Owner reported these assets (as currency, separate from his assets in the custody account), the CRT considers that this currency refers to the amount held by the Account Owner in his demand deposit account. It is clear, therefore, that this account was declared in the Account Owner's asset declaration. Even though the Bank's records indicate that the demand deposit account was not closed until 1948, the CRT considers it plausible that at least some of the assets in the account, namely the SF 3,705.00 reported by the Account Owner in his asset declaration, were transferred to the Nazis. Given these considerations, and given that there is no record of payment of the Account Owner's demand deposit account to him; that the Account Owner and his heirs would not have been able to obtain information about this 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his 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 Owner was her uncle by marriage, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account, one safe deposit box, and one demand deposit account.

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, bonds in default are awarded at market value.

According to the additional information from the Bank, the Account Owner held the following securities in custody account L50303:

- *2½% Hafengesellschaft Haidar-Pascha von 1902* bonds with a face value of SF 30,500.00. These bonds were in default and were trading at 16.25% when delivered on 11 January 1939. The total market value of these bonds was SF 4,956.25;²
- *12 Obligationen & Atkien-Zinsen Hafengesellschaft Haidar-Pascha* certificates with a face value of SF 500.00 per certificate. These securities were in default and were trading at 16.25% when delivered on 11 January 1939. The total market value of these securities was SF 975.00.³

Consequently, the total value of the securities held in the custody account was SF 5,931.25. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. In this case, the names and values of the securities as identified in the custody account portfolio holding cards (“*Depotvalorenkarten*”) from the Bank

² The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938. The market price used is the closing price in Zurich on 28 December 1938 for the 2.25% (formerly 4.5%) bonds of the Anatolische Eisenbahn-Gesellschaft. According to bond market guides of the period, Haidar-Pascha bonds were re-negotiated in 1928 and treated on the same basis as bonds of the Anatolische Eisenbahn-Gesellschaft (*auf entsprechender Basis geregelt*). It is thus plausible to value them at the same price. See *Der Rentenfuehrer* (Saling), *Handbuch der festverzinslichen Werte 1937/38*, p. 488-489 (Berlin: Hoppenstedt, 1937). The *Zürcher Kursblatt* for December 1938 shows that the Anatolische Eisenbahn-Gesellschaft was in default on its obligations at this time. This also appears from bond manuals of this period. The Haidar-Pascha company and the Anatolische Eisenbahn were part of the same enterprise and both entities’ issued bonds were treated the same in the 1928 debt renegotiation; thus it is plausible to consider the Haidar-Pascha bonds in default as well. *Zürcher Kursblatt*, 30 December 1938; *Der Rentenfuehrer* (Saling), *Handbuch der festverzinslichen Werte 1937/38*, p. 488-489 (Berlin: Hoppenstedt, 1937).

³ According to research conducted by the CRT, these securities functioned as guarantee certificates (*Gutscheine*) of the Haidar-Pascha company, which were essentially certificates issued in lieu of interest repayments due on the underlying debt obligation. Therefore, these securities will be treated and valued according to the market values obtained for their associated obligations. See *supra* note 2.

correspond exactly with the names and values of the securities reported by the Account Owner in his 1938 asset declaration. Because both the Account Owner and the Bank reported the same type and value of securities held in the custody account, the CRT considers this information to constitute evidence sufficient to rebut the Article 29 value presumption for this account. Accordingly, this account shall be valued at its historic value as reflected in the Bank's records and in the Account Owner's asset declaration as SF 5,931.25.

With regard to the safe deposit box, the CRT notes that its value is unknown. 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a safe deposit box was SF 1,240.00.

With regard to the demand deposit account, the CRT notes, as detailed above, that the Account Owner reported owning currency at the Bank in the amount of SF 3,705.00, which the CRT considers to have been held in the Account Owner's demand deposit account. Additionally, the Bank's records indicate that the value of the demand deposit account when it was closed to an unknown party on 20 June 1948 was SF 1,208.06. The CRT notes that it is not clear if the 1948 balance reflects the fact that only a portion of the account assets reported to the Nazis were transferred to the Reich, leaving a remainder in the account, or if the entire amount was transferred and then additional funds were added to the account at a later time. The CRT has determined that as there is no information in the Bank's records to suggest the Account Owner received the proceeds of SF 1,208.06 which remained in the account at the time it was closed to an unknown party in 1948, it is therefore also plausible that the Account Owner did not receive the entire proceeds of SF 3,705.00 as reported in his 1938 Census declaration. Absent plausible evidence to the contrary, the CRT has therefore determined that the value of SF 3,705.00, which represents the value of the currency reported by the Account Owner in his 1938 Census declaration, is the most appropriate value to use in valuing this account.

Thus, the combined 1945 average value for the three accounts at issue is SF 10,876.25. 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 135,953.13.

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 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
18 December 2008