

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

and Claimant [REDACTED 2]
represented by [REDACTED]

in re Account of Siegmund Färber and Fränzi Färber

Claim Numbers: 209026/NP; 209027/NP; 501629/NP; 501630/NP^{1,2}

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Siegmund Färber and Franziska Färber, and upon the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together “the Claimants”) to the account of Robert Blumka. This Award is to the published account of Siegmund Färber (“Account Owner Siegmund Färber”) and Fränzi Färber (“Account Owner Fränzi Färber”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).³

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

¹ Claimant [REDACTED 1]'s claims to the accounts of Siegmund Färber and Franziska Färber, which have been assigned Claim Numbers 501629 and 501630, were filed after the deadline for submission of Deposited Assets claims. However, Claimant [REDACTED 1] and Claimant [REDACTED 2] (together "the Claimants") also submitted Initial Questionnaires (“IQs”) in 1999, numbered ENG-0229-141 and ENG-0191-148, respectively, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been consolidated with Claim Number 209027, timely filed by Claimant [REDACTED 1], and Claim Number 209026, timely filed by Claimant [REDACTED 2], to the account of Robert Blumka.

² As noted above, the Claimants submitted two additional claims to the account of Robert Blumka, which are registered under the Claim Numbers 209026 and 209027. In a separate decision, the CRT awarded this account to the Claimants. See *In re Account of Robert and Marie Blumka* (approved on 25 October 2002).

³ 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”), Siegmund Färber and Fränzi Färber are indicated as each having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one joint account.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms identifying Account Owner Fränzi Färber as the Claimants' maternal aunt, Franziska (Franzi) Hedwig Färber, née Kutschka, who was born on 18 December 1899 in Fischern, Bohemia, Austria-Hungary (now the Czech Republic), and Account Owner Siegmund Färber as their uncle, Siegmund Rudolf Färber, who was born on 23 August 1886 in Fratting bei Pullitz, Bohemia. Claimant [REDACTED 1] stated that the Claimants' uncle and aunt were married and living at Hohlweggasse 10/4 in Vienna, Austria, by 1932.⁴ Claimant [REDACTED 1] further stated that Siegmund Färber, who was Jewish,⁵ went into hiding in Vienna from 1940 to 1945. Claimant [REDACTED 1] indicated that both her aunt and uncle resided at Zedlitzgasse 3/26 in Vienna after the Second World War. Claimant [REDACTED 1] indicated that her uncle died on 2 January 1964, and that her aunt died on 16 January 1979, both in Vienna.

Claimant [REDACTED 1] submitted several documents in support of her claim, including:

- her birth certificate, indicating that Claimant [REDACTED 1] was born on 14 April 1925 in Vienna, and that her mother's maiden name was Kutschka;
- copies of records from the Austrian State Archive (Archive of the Republic, Finance), submitted by the Claimants' uncle and their aunt, further described below;
- a death certificate, dated 3 January 1964, of the Claimants' uncle, Siegmund Rudolf Färber, indicating that his date of birth was 23 August 1886, that he was a retired manager ("*kaufmännischer Direktor*"), and that his widow was Franziska Hedwig Färber, née Kutschka;
- a notarized, official report of an individual's death ("*Todesfallaufnahme*"), dated 8 January 1964, identifying Siegmund Färber as having died intestate and his wife, Franziska Färber, as his heir;
- an affidavit, dated 6 March 1964, from the Claimants' uncle's sole surviving brother, [REDACTED], disclaiming any rights to the estate of Siegmund Rudolf Färber;
- a copy of Franziska Färber's handwritten last will and testament, dated 27 February 1971 and amended 13 June 1972, which identifies Claimant [REDACTED 1] and Claimant [REDACTED 2] as her nieces and sole heirs;
- a death certificate, dated 17 January 1979, of Franziska Hedwig Färber, née Kutschka, indicating that her date of birth was 18 December 1899;

⁴ Claimant [REDACTED 1] indicated that her uncle lived at Hohlweggasse 10/4 in Vienna, Austria, since 1932, and that her aunt lived at the same address since 1935. However, the CRT notes that it is plausible that both Claimant [REDACTED 1]'s aunt and uncle resided at this Viennese address prior to 1932, given that the Claim Form asks claimants to provide an address only from the time the claimant believes a Swiss bank account to have been opened.

⁵ The CRT notes that Claimant [REDACTED 1] indicated that her uncle was Jewish and that her aunt, a Roman Catholic, was the spouse of a Jewish man and as such also a target of Nazi persecution. The CRT further notes that various documents, including the Claimants' uncle's death certificate, indicate that Siegmund Färber identified himself as Roman Catholic. Nevertheless, as further described in this Award, the CRT notes that he was forced to complete a 1938 Census of Jewish-owned assets, demonstrating that he was considered to be Jewish by the Nazi regime's Nuremberg laws.

- a certificate of inheritance issued by a local court in Vienna, dated 13 July 1979, authenticating Franziska Färber's testament and recognizing Claimant [REDACTED 1] and Claimant [REDACTED 2] as her only heirs.

Claimant [REDACTED 1] indicated that she was born on 14 April 1925 in Vienna.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Robert Blumka.⁶

Claimant [REDACTED 2]

The CRT notes that Claimant [REDACTED 2] did not submit a Claim Form claiming the account at issue in this Award. Claimant [REDACTED 2] is included in this Award on the basis of the IQ she submitted to the Court in 1999, claiming that her father, Robert Blumka, who was married to Marie Blumka, née Kutschka, owned a Swiss bank account.⁷ In this IQ, Claimant [REDACTED 2] did not identify Account Owner Fränzi Färber and Account Owner Siegmund Färber as her relatives. However, the information submitted by Claimant [REDACTED 1] establishes that Account Owner Fränzi Färber and Account Owner Siegmund Färber were also Claimant [REDACTED 2]’s maternal aunt and uncle, respectively. Claimant [REDACTED 2] indicated that she was also born on 14 April 1925 in Vienna.

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database. According to these records, Account Owner Siegmund Färber was Siegmund Färber (or Farber), and Account Owner Fränzi Färber was Fränzi (or Franzi) Färber (or Farber), who both resided in the third district of Vienna, Austria. The Bank’s records indicate that the Account Owners jointly held a custody account, numbered 29537.

The Bank’s records indicate that the account was closed on 16 September 1938. The Bank’s records do not indicate the value of this account. There is no evidence in the Bank’s records 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 Franziska Färber, numbered 27642, and of Siegmund Färber, numbered 27641. According to these records, Siegmund Färber and Franziska Färber, née Kutschka, were married and resided at

⁶ As noted above, the CRT has treated the claims to this account in a separate decision.

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Hohlweggasse 10/4, in the third district of Vienna. The documents indicate that Siegmund Färber, born on 23 August 1886, was dismissed from his position as a commercial employee (*Handelsangestellter*) without notice on 1 July 1938. In the 1938 Census declaration, Siegmund Färber listed various shares of stock, held in five different companies. The records further indicate that Siegmund Färber was ordered on 8 August 1938 by the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*) to sell his foreign securities to the local National Bank Office (*Reichsbankstelle*). The records indicate that by November 1938 he had sold 20 shares, and that by July 1939, he no longer owned any stock. The documents pertaining to Franziska Färber indicate that she was born on 18 December 1899. 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 four claims of the Claimants in one proceeding.

Identification of the Account Owners

Claimant [REDACTED 1] has plausibly identified the Account Owners. The Claimants' aunt's and uncle's names and city of residence match the published names and city of residence of the Account Owners. The spelling supplied by Claimant [REDACTED 1] of the variation of her aunt's first name, Franzi, matches the alternative spelling for Account Owner Fränzi Färber found in the Bank's records. In addition, Claimant [REDACTED 1] indicated that Account Owner Siegmund Färber and Account Owner Fränzi Färber were related, even though the names were published separately 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").

In support of her claim, Claimant [REDACTED 1] submitted documents, including death and inheritance certificates of the Claimants' aunt and uncle, stating that Siegmund and Franziska Färber were born on 23 August 1886 and 18 December 1899, respectively. The CRT notes that these dates match the dates of birth for Siegmund Färber and Franziska Färber specified in the 1938 Census records. The CRT further notes that the 1938 Census records indicate that Siegmund Färber and Franziska Färber resided in the third district of Vienna, Austria. Taken together, the documents provide independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same part of town recorded in the Bank's records as the names and city district of residence of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named Siegmund Rudolf Faerber and Franziska Faerber, and indicates that their

respective dates of birth were 23 August 1886 and 18 December 1899, which matches the information about the Account Owners provided by Claimant [REDACTED 1].⁸ The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the names Siegmund Färber and Fränzi Färber each appear only once on the ICEP List. Moreover, the CRT notes that there are no other claims to this account. Finally, the CRT notes that Claimant [REDACTED 2] has not identified Account Owner Fränzi Färber and Account Owner Siegmund Färber, but further notes that the information submitted by Claimant [REDACTED 1] establishes that Account Owner Fränzi Färber and Account Owner Siegmund Färber were Claimant [REDACTED 2]'s aunt and uncle, as well.

Status of the Account Owners as Victims of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owners were Victims of Nazi Persecution. Claimant [REDACTED 1] stated that Account Owner Siegmund Färber was Jewish, and that Account Owner Fränzi Färber was married to a Jewish spouse. Claimant [REDACTED 1] further stated that Account Owner Siegmund Färber lived in hiding in Vienna, Austria from 1940 to 1945. Claimant [REDACTED 1] also submitted copies of the Account Owners' 1938 Census records, which show that they were targeted as Jews by Nazi authorities after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). As noted above, persons named Siegmund Rudolf Faerber and Franziska Faerber were included in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

Claimant [REDACTED 1] has plausibly demonstrated that both she and her sister, Claimant [REDACTED 2], are related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimants' aunt and uncle. These documents include a copy of Account Owner Fränzi Färber's last will and testament and a certificate of inheritance, both of which identify the Claimants as her nieces; and a copy of Account Owner Siegmund Färber's death certificate, identifying his widow as Account Owner Fränzi Färber. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that the account was closed on 16 September 1938, when the Account Owners were residing in Vienna, Austria, several months after the *Anschluss*; that Account Owner Siegmund Färber was forced to sell all foreign securities to the *Reichsbankstelle* by order of 8 August 1938; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their 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

⁸ The CRT notes that "ae" is a common transliteration of the umlaut "ä".

(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 Owners 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 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 Owners were their aunt and uncle, 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 account.

Amount of the Award

In this case, the Account Owners held a 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 investigation carried out pursuant to the instructions of ICEP (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.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the account owner’s will or other inheritance documents pertaining to the account owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimants are sisters. Claimant [REDACTED 1] has submitted an unbroken chain of inheritance documents from both joint Account Owners, indicating that Claimant [REDACTED 1] and Claimant [REDACTED 2] are the sole heirs of Account Owner Fränzi Färber, who was in turn the sole heir of Account Owner Siegmund Färber. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each 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
31 December 2005