

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Account of Sara Fink

Claim Numbers: 222865/JG; 222866/JG

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the accounts of Ida Sarah Fink, née Löwy, and to the accounts of Heinrich Fink.¹ This Award is to the published account of Sara Fink (the “Account Owner”)² at the Zurich branch of the [REDACTED] (the “Bank”).

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 Claim Forms identifying the Account Owner as her paternal grandmother, Ida Sarah Fink, née Löwy, who was born on 7 April 1883 in Sebastiansberg, Austria-Hungary (now the Czech Republic) and was married to [REDACTED] on 2 June 1908 in Saaz, Austria-Hungary (now the Czech Republic). The Claimant indicated that her grandmother, who was Jewish, used her middle name, Sarah, as a variation of her first name. The Claimant further explained that her grandmother was a housewife, and that her grandfather, [REDACTED], was a bank director who held foreign assets.

According to the Claimant, her grandparents lived together in Vienna, Austria until March 1940, when they fled to Shanghai, China via the Trans-Siberian Railway. The Claimant stated that

¹ [REDACTED 1]’ (the “Claimant”) claim to the accounts of Heinrich Fink will be treated in a separate determination.

² The CRT notes that on the List of Account Owners Published in 2005 (the “2005 List”), the name of the Account Owner is listed as “S. Fink”. Upon careful review of the records from the Swiss Federal Archive, the CRT has determined that the Account Owner’s name is “Sara Fink.”

[REDACTED] died of malnutrition/starvation in Shanghai in 1943, and that her grandmother lived in Shanghai until her death on 2 July 1947.³

The Claimant explained that her grandparents had two children, namely the Claimant's father, [REDACTED] ([REDACTED]), who died in 1984 in the United States; and [REDACTED], who died in 1989 in London, the United Kingdom.

The Claimant indicated that she was born on 7 November 1949 in Washington, District of Columbia, the United States. The Claimant is representing her sister, [REDACTED 2], who was born on 26 June 1956 in Washington, District of Columbia.

The Claimant previously submitted two Initial Questionnaires to the Court in 1999, asserting her entitlement to Swiss bank accounts owned by Ida Sarah Fink and Isidor Fink.⁴

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Sara Fink during their investigation. The documents evidencing accounts belonging to Sara Fink were obtained from archival sources in the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of *Frau* (Mrs.) Sara Fink, numbered 66.

³ The CRT notes that several hundred German and Austrian Jews fled to Shanghai after the beginning of Nazi persecution of Jews in 1933, and then, following the 1938 violence of Kristallnacht, thousands more followed. According to the website of the United States Holocaust Memorial Museum, when Shanghai's refugee population suddenly jumped from about 1,500 at the end of 1938 to nearly 17,000 one year later, the local Jews were overwhelmed and hard pressed to find the resources to help needy families. The Committee for Assistance of European Jewish Refugees in Shanghai, formed in 1938 by prominent local Jews, turned to the Joint Distribution Committee in New York for additional funds. The JDC appropriation rose from \$5,000 in 1938 to \$100,000 in 1939. Even this barely kept up with the mounting demands. By late 1939, more than half of the refugee population required financial help for food or housing. See <http://www.ushmm.org/wlc/article.php?lang=en&ModuleId=10007091> (last visited 19 November 2008).

⁴ The CRT did not locate an account belonging to Isidor Fink in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (ICEP or ICEP Investigation), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the Rules).

According to these records, the Account Owner was *Frau Sara Fink*. The records from the Swiss Federal Archive do not indicate the Account Owner's place of residence. These records further indicate that the Bank did not have contact with her since prior to 1945. The records from the Swiss Federal Archive indicate that the Account Owner held one demand deposit account, which held a balance of 219.85 Swiss Francs ("SF") as of 1 September 1963.

According to the records from the Swiss Federal Archive, the account at issue was reported by the Bank to the registration office for assets of missing foreigners at the Swiss Federal Justice Department on 27 February 1964, and on 3 November 1965 it was reported by the Justice Department to the Cantonal Guardianship Authority of the City of Zurich (*Vormundschaftsbehörde der Stadt Zürich*). On 2 December 1966, the account was placed under the guardianship of Dr. H. Häberlin, a curator in the office for assets of missing foreigners.

The records from the Swiss Federal Archive records do not indicate the ultimate disposition of the account. There is no evidence in these records that the Account Owner or her 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 Ida Fink, numbered 800.

The records indicate that Ida Fink, née Löwy, was born on 7 April 1883, and that she lived at Widerhofergasse 8, Vienna. The records further indicate that she was married to [REDACTED], and that she was a housewife.

According to these records, Ida Fink held a number of securities at an unnamed bank. The records also contain an unsigned memorandum dated 4 October 1938, indicating that "SS men" were sent into the apartment of Ida Fink, where they discovered three original oil paintings, including "*Die Pferdeschau*" by Blaas, "*Die Weide*" by Gettel, and an unsigned still-life painting. The memorandum also indicates that a further description of the jewelry found in the apartment would be made later that week. The records also contain an official estimator's estimates of the value of jewelry and silverware owned by Ida Fink, totaling approximately 3,100.00 Reichsmark. Those estimates are dated 6 October 1938, two days following the SS officers' investigation of the Fink apartment.

In the records of the Austrian State Archive, there are also documents concerning the assets of [REDACTED], numbered 801. The records indicate that [REDACTED] was married to Ida Fink, née Löwy, that he resided at Widerhofergasse 8, Vienna, and that he was a titular Director of the *Niederösterreichische Escompte Gesellschaft*.

The records also indicate that [REDACTED] held a significant number of securities at an Austrian bank. According to these records, [REDACTED] and his wife Sara Fink were assessed flight tax (*Reichsfluchtsteuer*) of RM 27,154.00, based on total joint assets of RM 108,618.00, a payment which was due 30 September 1939. The records also contain a request from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (“VVSt.”) that [REDACTED] offer for sale to the Reich his securities; the records further contain a number of letters from [REDACTED] to the VVSt., indicating that he had sold a large number of securities.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant’s grandmother’s name matches the published name of the Account Owner.⁵ The CRT notes that the records from the Swiss Federal Archive do not contain any specific information about the Account Owner other than her name.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ida Fink, and indicates that her date of birth was 7 April 1883, 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 the name S. Fink appears only once on the List of Account Owners Published in 2005 (the “2005 List”). The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 she fled Austria for China in 1940. The CRT notes that the Account Owner was required to register her assets pursuant to the 1938 Census.

⁵ The CRT notes that the name “Sarah” is a recognized variation of “Sara.” The CRT notes that while the full given name Sara was not published on the 2005 List, the name Sara Fink was published on a list of account owners identified in the 1962 Survey that was published by the Swiss government.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's paternal grandmother. There is no information to indicate that the Account Owner has other surviving heirs other than the party whom the Claimant is representing.

The CRT further notes that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Forms.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Austria in 1940 and lived in China until her death in 1947; that her husband perished in China during the Second World War; that the account was registered in the 1962 Survey, which demonstrates that the account still existed as of that date, years after the death of the Account Owner; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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. 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 and the party she represents. First, the claims are 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 grandmother, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner, nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The records from the Swiss Federal Archive indicate that the value of the account as of 1 September 1963 was SF 219.85. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 504.85. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to

be SF 2,140.00. 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, to produce a total award amount of SF 26,750.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her sister, [REDACTED 2]. Accordingly, the Claimant and the party she represents are each entitled to one-half of the total award amount.

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 claims 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
25 November 2008