

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Valeria Fried
also acting on behalf of [REDACTED]

in re Account of Rudolf Friedmann and Valeria Friedmann

Claim Number: 713773/BE¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Valeria Simcha Fried, née Friedmann, (the “Claimant”) to the accounts of Albert Braun and Mor (Moritz) Braun.² This Award is to the unpublished account of Rudolf Friedmann (“Account Owner Rudolf Friedmann”) and Valeria Friedmann (“Account Owner Valeria Friedmann”) (together the “Account Owners”) at the Zurich branch of bank [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 an Initial Questionnaire (“IQ”) identifying Account Owner Valeria Friedmann as herself, Valeria Fried, née Friedmann, who was born on 25 October 1920 in Topolčany, Czechoslovakia (today, Slovakia), and Account Owner Rudolf Friedmann as her eldest brother, Rudolf Friedmann, who was born on 2 December 1911 in Topolčany, and was married to [REDACTED]. The Claimant indicated that her parents, [REDACTED] and [REDACTED], née [REDACTED], were married in approximately 1909, that they resided in Topolčany, and that she had two other brothers, [REDACTED] and [REDACTED], and a sister,

¹ Claimant Valeria Fried (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered IQ-HEB-0075-034, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires 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 IQ was forwarded to the CRT and has been assigned claim number 713773.

² The CRT did not locate any accounts belonging to Albert Braun and Mor (Moritz) Braun 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”).

[REDACTED]. The Claimant further indicated that until the outbreak of the Second World War, she and her siblings lived with their parents. According to the Claimant, her brother Rudolf worked in their father's business, which specialized in food import, and had a daughter named [REDACTED]. The Claimant stated that when the deportations began in occupied Slovakia, she fled to Hungary, where she stayed with her maternal uncle, [REDACTED], until he and his family were deported. According to the Claimant, she then fled Hungary in a special transport known as the Kastner (Kasztner) train, which arrived first at Bergen-Belsen, then at a refugee camp in Switzerland.³ The Claimant stated that her brother Rudolf remained in Slovakia with his wife and daughter and went into hiding until 1944, when he was captured and deported to Mauthausen. According to the Claimant, her brother's wife and daughter remained in hiding until the end of the War, and he perished during the death march from Mauthausen.

The Claimant stated that all her other siblings perished as well, and that her father died in 1938 in Topolčany. The Claimant stated that she emigrated to Palestine in 1945.

The Claimant indicated that she was born on 25 October 1920 in Topolčany. The Claimant is representing her niece, [REDACTED], née [REDACTED], who was born in Topolčany.

Information Available in the Bank's Records

The Bank's records consist of a registered letter from the Bank, dated 15 January 1940, and a report from 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"). The 15 January 1940 letter from the Bank is addressed to Account Owner Rudolf Friedmann in care of David Friedmann of Topolčany, Slovakia. The letter refers to correspondence from Rudolf Friedmann to the Bank, dated 11 December 1939, and the Bank's response, dated 15 December 1939 and states that enclosed is the confirmation from the *Anglo-Palestine Bank Limited* in Tel-Aviv, Palestine, that an account had been opened in his name and in the name of *Fräulein* (Miss) Valeria Friedmann. According to the letter, the *Anglo-Palestine Bank Limited* informed the Bank that it, according to its practice, could not deliver a declaration (*Erklärung*) addressed "to whom it may concern," as he [Rudolf Friedmann] had wished. Instead, it addressed the declaration to him and Miss Valeria Friedmann care of the Bank in Zurich, with which, the Bank noted, he would surely just as well be served.

The CRT has determined that this letter, which was included in the file prepared by the ICEP auditors, indicates the existence of an account held by *Herr* (Mr.) Rudolf Friedmann and *Fräulein* (Miss) Valeria Friedmann. The letter does not indicate the type of the account held, when it was closed, nor does it indicate the value of this account. The auditors who carried out

³ The CRT notes that the "Kastner Train" (or the "Kastner Transport") refers to a trainload of approximately 1,684 Jews who fled, in 1944, from Nazi-allied Hungary. The train was named after Rudolf Kastner, a Hungarian Jewish leader who was a principal player in the negotiations that led to the rescue of these Jews for a ransom of cash, jewels, gold, and shares of stock. Despite the agreement that the train would go directly to a neutral country, it went to Bergen-Belsen. Several hundred of the Jews in that train were sent later to Switzerland. See <http://www.scrapbookpages.com/BergenBelsen/BergenBelsen06.html>.

the ICEP Investigation did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed.

There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's own name and her brother's name match the unpublished names of the Account Owners. Furthermore, the Claimant's father's name and city and country of residence match the unpublished name and city and country of residence of the contact person mentioned in the address of Account Owner Rudolf Friedmann.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes two Pages of Testimony submitted by the Claimant in 1956 and in 1999, and one Page of Testimony submitted by represented party [REDACTED] in 1981, which indicate that Rudolf Friedmann was born in 1911 in Topolčany, that his father's name was [REDACTED], that he was married to [REDACTED], that he was a businessman, and that he perished in the death march from Mauthausen, which matches the information about Account Owner Rudolf Friedmann provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Furthermore, the CRT notes that the CRT's database of victims includes a person named Valeria Friedmann, and indicates that her date of birth was 25 October 1920, which matches the information about Account Owner Valeria Friedmann provided by the Claimant.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city and country of residence than the city and country of residence of the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that her family is Jewish, that she fled to Hungary, and that she fled Hungary on the Kastner Train. The Claimant further stated that her brother, together with his wife and daughter, lived in hiding in Slovakia until 1944, when he was captured and deported to Mauthausen, where perished during the death march, and that her other siblings, [REDACTED], [REDACTED], and [REDACTED], also perished during the Second World War.

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

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information, demonstrating that she is Account Owner Valeria Friedmann, and that Account Owner Rudolf Friedmann was her brother.

The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's record; that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owners and the Claimant; and that the Claimant also identified information which matches information contained in the Yad Vashem records. There is no information to indicate that the Account Owners have other surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that Account Owners Rudolf Friedmann perished in Mauthausen; that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; 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 (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. 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 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 herself and her brother, 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 one account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00.

Division of the Award

According to Article 25(1) of the Rules, if an account is a joint account and claimants related to each of the account owners have submitted claims to the account, it shall be presumed that each account owner was the owner of an equal share of the account. This rule shall apply even if one of the account owners is still alive. In this case, the Claimant is Account Owner Valeria Friedmann, and her brother was Account Owner Rudolf Friedmann. Each is presumed to own an equal share in the account.

With respect to the share of the account owned by Account Owner Valeria Friedmann, the Claimant, as Account Owner Valeria Friedmann, is entitled to her entire share of her half of the account.

With respect to the half of the account owned by Account Owner Rudolf Friedmann, 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 [REDACTED], the daughter of Account Owner Rudolf Friedmann. The CRT notes that represented party [REDACTED], as Account Owner Rudolf Friedmann's daughter, has a better entitlement to his half of the account than the Claimant, Account Owner Rudolf Friedmann's sister. Accordingly, represented party [REDACTED] is entitled to Account Owner Rudolf Friedmann's half of the account. Thus, the Claimant and [REDACTED] 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 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 2007