

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED], née [REDACTED]
represented by [REDACTED]

in re Account of Fritz Gutfreund

Claim Number: 208775/AY¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the account of [REDACTED].² This award is to the account of Fritz Gutfreund (the “Account Owner”) at 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 a Claim Form identifying the Account Owner as her paternal uncle, Fritz Gutfreund, who was born in Vienna, Austria, to [REDACTED] and [REDACTED].³ The Claimant stated that her father, [REDACTED], was born on 25 August 1896, and that he was married to [REDACTED]. The Claimant also stated that her uncle, who was Jewish, worked together with her father in leather retail shops located at Mariahilferstrasse 12, 44 and 69 in Vienna. According to the Claimant, Fritz Gutfreund and [REDACTED] died in Vienna on an unknown date and are buried together in the same grave. The Claimant stated that she was sent on a *Kindertransport* to England on 6 June 1939, that her mother escaped Austria and fled to Shanghai, China, and that she joined her mother in China in 1940. According to the Claimant, her father died in Vienna on 7 August 1941. The Claimant stated that she was born on 15 June

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 200427 and 208775. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 208775.

² The CRT has treated the claim to this account in a separate decision. See In re Account of Paul Gutfreund, Charlotte Gutfreund, and Fritz Gutfreund (approved on 27 December 2002).

³ The CRT notes that in the Claimant’s original Claim Form and in the 27 December 2002 decision, the Claimant’s maternal grandmother, [REDACTED], was incorrectly identified as her paternal grandmother. The Claimant’s paternal grandparents were [REDACTED] and [REDACTED].

1926 in Vienna, and that she had a sister, [REDACTED], née [REDACTED], who died on 10 April 2001. The Claimant is represented by [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of a list of dormant accounts and correspondence between the Bank and the Swiss Central Clearing Office. According to these records, the Account Owner was Fritz Gutfreund, who resided at Mariahilferstrasse 69, in Vienna, Austria. The Bank's records indicate that the Account Owner held a demand deposit account, numbered 61571, and that the last contact with the Account Owner took place in 1938. These records also indicate that the account was frozen on 17 February 1945 in the Swiss freeze of assets held by citizens of Germany and territories incorporated into the Third Reich, at which time it had a balance of 105.50 Swiss Francs. The Bank's records further indicate that the account had a balance of 46.50 Swiss Francs when it was unfrozen on 14 June 1955. According to the Bank's records, on 7 September 1959, the account was included on a list to be considered for the 1962 survey of dormant assets held by foreigners who were known or presumed to have fallen victim to religious, racial or political persecution (the "1962 Survey").

The Bank's records do not show when the account at issue was closed or to whom it was paid. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the 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 records that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Fritz Gutfreund, numbered 6648. According to these records, Fritz Gutfreund was born on 18 April 1899 and was married to [REDACTED], née [REDACTED], and they lived at Richterergasse 1a in Vienna VII, Austria. There are additional documents relating to the assets of [REDACTED] and [REDACTED] under the numbers 1386 and 6420, respectively. These records indicate that [REDACTED], who was born on 24 September 1869, was a widow and lived at Chwallagasse 2 in Vienna VI. According to these records, [REDACTED] was born on 25 August 1896, was married to [REDACTED], née [REDACTED], and lived at Lindengasse 28 in Vienna VII.

All of these records indicate that Fritz Gutfreund, [REDACTED] and [REDACTED] worked as salespeople at a leather shop owned by [REDACTED] called *Mariahilfer Tachner*, which was located at Mariahilferstrasse 69 in Vienna. Fritz Gutfreund, [REDACTED] and [REDACTED]

each reported three capital accounts belonging to the three of them. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her paternal uncle's name matches the published name of the Account Owner. The Claimant identified her uncle's exact business addresses, which matches unpublished information about the Account Owner contained in the Bank's records and in the Austrian State Archives. The Claimant also identified the Account Owner's brother ([REDACTED]), his brother's date of birth, his brother's wife's name and the Account Owner's mother ([REDACTED]), all of which match information about the Account Owner contained in the Austrian State Archives. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. 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 Target of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Target of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, resided in Vienna during World War II, and that she, his niece, was sent on a *Kindertransport* to England in 1939.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting detailed biographical information, demonstrating that the Account Owner was her paternal uncle. The CRT further notes that the Claimant identified unpublished information about the Account Owner's exact business address contained in the Bank's records, as well as information about the Account Owner's brother ([REDACTED]), his brother's date of birth, his brother's wife's name and the Account Owner's mother ([REDACTED]), all of which match information about the Account Owner contained in the Austrian State Archives. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given the existence of Nazi confiscatory legislation in Austria after the March 1938 *Anschluss* (annexation by Germany); that the Account Owner's account was frozen in 1945 and unfrozen in 1955; that there is no record of the payment of the accounts to the Account Owner or his heirs; that the Account Owner or 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 (b), (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.

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 and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank’s records indicate that the value of the demand deposit account as of 17 February 1945 was 105.50 Swiss Francs. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 of the Rules by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 26,750.00 Swiss Francs.

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
20 May 2004