

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], [REDACTED 3]
and [REDACTED 4]

in re Accounts of Fritz Keller and Grete Keller

Claim Number: 401581/AC

Award Amount: 567,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of Fritz Keller. This Award is to the published accounts of Fritz Keller (“Account Owner Fritz Keller”) and Grete Keller (“Account Owner Grete Keller”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank 1”), and the published accounts of Account Owner Grete Keller, over which Hans Grotte (“Power of Attorney Holder Grotte”) and Account Owner Fritz Keller held power of attorney, at the [REDACTED] (“Bank 2”) (together the “Banks”).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 Account Owner Grete Keller as her maternal grandmother, Margarethe (Grete) Keller, formerly Jonasz, née Grotte, and Account Owner Fritz Keller as her grandmother’s second husband, Dr. Friedrich (Fritz) Keller (formerly Kohn). The Claimant indicated that her grandmother, who was previously married to the Claimant’s grandfather, [REDACTED], was born on 7 September 1883 in Vienna, Austria, and that Fritz Keller was born on 17 August 1878 in Schlackenwerth, Bohemia (now Ostrov, Czech Republic). The Claimant further indicated that her grandmother married Fritz Keller on 19 December 1918 in Vienna. The Claimant explained that her mother ([REDACTED], née [REDACTED]), who

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”), there are three individuals named Fritz Keller who are identified as owning accounts. This decision addresses the Claimant’s claim to the two published accounts of Fritz Keller [Austria]. The CRT will treat the Claimant’s claim to the accounts of the other two individuals named Fritz Keller in a separate determination.

was the daughter of Grete and [REDACTED], grew up with her half-brother, [REDACTED], in the house that Fritz and Grete Keller shared.

The Claimant stated that Fritz Keller, who was Jewish, was an architect who lived at Nusswaldgasse 13 in Vienna from approximately 1919 until his death on 14 December 1938. According to the Claimant, after the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”), Fritz Keller was forced to register his assets pursuant to a Nazi decree. The Claimant explained that Fritz Keller lost much of his wealth thereafter, in part from the payment of various taxes on his assets. According to the Claimant, [REDACTED] was arrested by the Nazis, and her mother, who had emigrated to London, England, sent money and helped arrange his release. The Claimant stated that her mother enabled her mother and half-brother to flee Austria to the United Kingdom in 1939. The Claimant indicated that her grandmother died on 19 May 1959 in Kent, England, and that her mother’s half-brother, [REDACTED], died without issue in London, England on 6 November 1985.

The Claimant submitted documents in support of her claim, including: (1) a copy of her grandmother’s birth certificate, indicating that Margarethe Grotte was born on 7 September 1883 in Vienna; (2) a copy of her grandmother’s marriage certificate, indicating that Dr. Friedrich Keller and Margarethe (Grete) Jonasz, née Grotte, who were Jewish, were married in Vienna on 19 December 1918; (3) a copy of Friedrich Keller’s death certificate, indicating that he was born on 17 August 1878 in Schlackenwerth, that he was an engineer with a doctor’s title, as well as an architect, and that he resided in Vienna, where he died on 18 December 1938; (4) a copy of her grandmother’s death certificate, indicating that Grete (Margarethe) Keller, who was the widow of Friedrich Keller, died on 19 May 1959, and that she had a son named [REDACTED]; (5) a copy of her mother’s birth certificate, indicating that [REDACTED] was born on 18 March 1909 in Vienna, and that her parents were [REDACTED] and Margit Jonasz, née Grotte; (6) a copy of her mother’s death certificate, indicating that [REDACTED], née [REDACTED], who was the widow of [REDACTED], died on 11 November 1998, and that she had a daughter named [REDACTED 1]; (7) a copy of her parents’ marriage certificate, indicating that [REDACTED] and [REDACTED] were married on 30 March 1933 in Vienna, that [REDACTED]’s father was [REDACTED], and that Dr. Fritz Keller and Greta Keller were witnesses to their marriage; (8) a copy of her own birth certificate, as well as copies of the birth certificates of her siblings [REDACTED 2], [REDACTED 3] and [REDACTED 4], indicating that their parents were [REDACTED] and [REDACTED], née [REDACTED]; and (9) a copy of the Claimant’s marriage certificate, indicating she was married to [REDACTED] on 18 July 1964, and that her father was [REDACTED].

The Claimant indicated that she was born on 1 September 1934 in Vienna. The Claimant is representing her siblings, [REDACTED 2], née [REDACTED], who was born on 30 October 1936 in Vienna; [REDACTED 3], who was born on 26 June 1944 in Burnham, United Kingdom; and [REDACTED 4], who was born on 20 March 1946 in Hendon, United Kingdom.

Information Available in the Banks' Records

Bank 1

Bank 1's records consist of two customer cards. According to these records, Account Owner Fritz Keller was Dr. Fritz Keller, an architect who resided in Vienna, Austria, and Account Owner Grete Keller was *Frau* (Mrs.) Grete Keller, who resided in Vienna. Bank 1's records indicate that Account Owner Fritz Keller held one demand deposit account, opened on 18 June 1931 and closed on 20 July 1938, and one custody account, numbered L43607, opened on 31 May 1931 and closed on 30 December 1938. Bank 1's records further indicate that Account Owner Grete Keller held one demand deposit account, opened on 20 October 1931 and closed on 10 February 1939, and one custody account, numbered L43190, opened on 15 July 1931 and closed on 8 October 1938.

Bank 1's records do not indicate the value of these accounts. There is no evidence in Bank 1's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

Bank 2

Bank 2's records consist of a customer card and printouts from Bank 2's database. According to these records, Account Owner Grete Keller was *Frau* Grete Keller, who resided at Nusswaldgasse 13 in Vienna. Bank 2's records further indicate that on 11 May 1938, Bank 2 was ordered to send all correspondence to Account Owner Grete Keller at 32 Herne Hill, London, the United Kingdom. Bank 2's records indicate that Account Owner Grete Keller held one demand deposit account and one custody account, both registered under number 32021. Bank 2's records indicate that Account Owner Grete Keller granted power of attorney to Dr. Fritz Keller and Dr. Hans Grotte on 16 October 1930.

Bank 2's records indicate that the custody account was closed on 30 September 1938, and that the demand deposit account was closed on or before that date. Bank 2's records do not indicate the value of these accounts. There is no evidence in Bank 2's records that the Account Owners, Power of Attorney Holder Grotte, or their heirs closed the accounts 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 1938 Census documents concerning the assets of Dr. *Ing.* (Engineer) Fritz (Friedrich) Keller, numbered 24110. These records indicate that Fritz Keller was an architect, that he lived at Nusswaldgasse 13 in Vienna, that he was born on 17 August 1878, that he was married to *Frau* Margarethe Keller, née Grotte, and that they had a son named [REDACTED]. The records further contain a letter, signed by Grete

Keller and dated 31 January 1939 (after the death of Fritz Keller), to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt.”), indicating, among other things, that flight tax (*Reichsfluchtsteuer*) of 94,400.00 Reichsmark (“RM”) had been paid in part, and the remainder secured, to obtain the release of Fritz Keller’s son. The same letter notes that the first tranche of the atonement tax (*Judenvermögensabgabe*) of RM 6,500.00 figured by Grete Keller on total assets of RM 130,000.00, had been paid. These records further indicate that both Grete Keller and [REDACTED] resided in London by 29 September 1939. These records make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant’s grandmother’s name and city and country of residence match the published name and city and country of residence of Account Owner Grete Keller, and the name of the Claimant’s grandmother’s second husband matches the published name of Account Owner Fritz Keller. The Claimant identified Account Owner Fritz Keller’s title and profession, which matches unpublished information about Account Owner Fritz Keller contained in Bank 1’s records. The Claimant also identified the Account Owners’ street address and the relationship between the Account Owners, which is consistent with information contained in the 1938 Census records and the Banks’ records.

In support of her claim, the Claimant submitted documents, including (1) a copy of her grandmother’s birth certificate; (2) a copy of her grandmother’s marriage certificate; (3) a copy of Friedrich Keller’s death certificate; (4) a copy of her grandmother’s death certificate; (5) a copy of her parents’ marriage certificate, providing independent verification that the persons who are claimed to be the Account Owners had the same name, title, profession and place of residence recorded in Bank 1’s records for Account Owner Fritz Keller, and the same name and city of residence recorded in the Banks’ records for Account Owner Grete Keller. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence than the 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 the Account Owners were Jewish, that they lived in Austria prior to and after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), and that Account Owner Grete Keller and her son fled to England to avoid further persecution. Furthermore, Account Owner Fritz Keller was required to complete a 1938 Census form registering his assets, and these records indicate that his son was arrested by the Nazis and released upon the payment of flight tax.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's grandmother and her grandmother's second husband. These documents include: (1) a copy of her grandmother's marriage certificate, indicating that Dr. Friedrich Keller married Margarethe (Grete) Jonasz, née Grotte; (2) a copy of her mother's birth certificate, indicating that [REDACTED]'s mother was [REDACTED], née [REDACTED]; (3) a copy of her parents' marriage certificate, indicating that [REDACTED]'s father was [REDACTED], and that Dr. Fritz Keller and Greta Keller were witnesses to her marriage; and (4) a copy of her own birth certificate, as well as copies of the birth certificates of her siblings, indicating that their mother was [REDACTED], née [REDACTED]. There is no information to indicate that the Account Owners have surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that Account Owner Fritz Keller died in Vienna in 1938 and therefore could not have repatriated his accounts without losing ultimate control over its proceeds; that a 1938 Census form was filed under the name of Account Owner Fritz Keller (completed after his death by Account Owner Grete Keller), including information that Account Owner Grete Keller was living in England; that Account Owner Grete Keller resided in Nazi-controlled Austria until she fled to England in 1939; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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, Power of Attorney Holder Grotte, 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 parties whom 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 her grandmother and her grandmother's second husband, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor Power of Attorney Holder Grotte, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Fritz Keller held one custody account and one demand deposit account, and Account Owner Grete Keller held two custody accounts and two demand deposit accounts. 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 custody account was 13,000.00 Swiss Francs (“SF”) and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 45,420.00. 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 567,750.00.

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. Furthermore, according to Rule 23(1)(g), if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing her three siblings, and she and her siblings are the grandchildren of Account Owner Grete Keller, who was the wife of Account Owner Fritz Keller. Accordingly, the Claimant and represented parties [REDACTED 2], [REDACTED 3] and [REDACTED 4] are each entitled to one-quarter 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
28 June 2006