

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
represented by Erez Bernstein

## **in re Account of Franziska Löwner**

Claim Number: 501786/NB<sup>1</sup>

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Paul Abel. This award is to the published account of Franziska Löwner (the “Account Owner”) 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 a Claim Form identifying the Account Owner as her paternal great-aunt by marriage, Franziska (Frances, Fanny) Abel, née Löwner, who was born in 1886, and who was the second wife of the Claimant’s paternal grandfather’s brother, Dr. Paul Abel. The Claimant stated that her great-uncle Dr. Paul Abel worked as a patent attorney and that he resided in Vienna, Austria. According to the Claimant, Dr. Paul Abel, who was Jewish, fled Austria for the United Kingdom following the incorporation of Austria into the Third Reich in March 1938 (the “*Anschluss*”), and he married Franziska Löwner on 17 August 1939. The Claimant stated that Dr. Paul Abel and Franziska Löwner did not have any children.

The Claimant indicated that Dr. Paul Abel passed away on 10 May 1971 in London, the United Kingdom, and that Franziska Löwner passed away in 1984.

In support of her claim, the Claimant submitted copies of: (1) her family tree, which indicates that Franziska Abel, née Löwner, was married to Dr. Paul Abel, the brother of her paternal grandfather, Dr. [REDACTED]; (2) her father’s birth certificate, which indicates that

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<sup>1</sup> In a separate decision, the CRT awarded the accounts of Paul Abel to the Claimant. See *In re Accounts of Paul Abel* (approved on 16 October 2008).

[REDACTED] was the son of Dr. [REDACTED] and [REDACTED] of Vienna, who were Jewish; and (3) her father's death certificate, which indicates that [REDACTED] is the daughter of [REDACTED], who passed away on 3 February 1992 in London.

The Claimant indicated that she was born on 19 February 1959 in London, the United Kingdom.

### **Information Available in the Bank's Records**

The Bank's records consist of printouts from the Bank's database and a list of closed Austrian custody accounts. According to these records, Account Owner Franziska Löwner was *Frl.* (Miss) Franziska Löwner, who resided in Vienna, Austria. The Bank's records indicate that the Account Owner held a custody account, numbered 41895, which held a balance of 1,000.00 Swiss Francs ("SF") that was transferred to the Vienna branch of the *Oesterreichische Creditanstalt-Wiener Bankverein* on 17 June 1938, in accordance with Austrian currency regulations imposed following the *Anschluss*.

The records indicate that the account was closed on 15 December 1938. There is no evidence in the Bank's 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 Franziska Löwner, numbered 20422.

These records indicate that Franziska (Fanny) Löwner was born on 15 May 1886, that she was not married at the time she filed her asset declaration on 12 July 1938, and that she resided at Parkring 2, Vienna I, Austria. According to these documents, Franziska Löwner registered with the Nazi authorities that as of 12 July 1938, she owned cash and bank assets worth 500.00 Reichsmark ("RM"), which was then equivalent to SF 877.50;<sup>2</sup> jewelry valued at 175.00, (the equivalent to SF 307.13); and securities valued at RM 4,950.00 (equivalent to SF 8,687.25).

The records further contain a letter, dated 13 September 1938, from Franziska Löwner's attorney, Dr. Emerich Hunna, responding to the request of the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt.") that Franziska Löwner provide the value of additional securities that she held. Dr. Hunna indicated that the additional bonds that his client held were valued at 1,000.00 Pound Sterling ("£"); he also indicated that Franziska Löwner was not employed. The records also contain a letter dated 1 December 1938, in which Franziska Löwner

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<sup>2</sup> The CRT uses official exchange rates when making currency conversions.

explained the changes from her original asset declaration. According to these records, Franziska Löwner valued her bonds worth £1,000.00 at RM 12,775.50 (the equivalent to SF 22,421.00) and she indicated that on July 1938, she had sold her stocks worth RM 5,000.00 (the equivalent to SF 8,775.00) through the Vienna branch of the *Oesterreichische Creditanstalt-Wiener Bankverein*.

The records make no mention of assets held in a Swiss bank account.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant's great-aunt's name and marital status in 1938, match the published name and marital status of the Account Owner in 1938.

While the Claimant did not specifically indicate the city in which her great-aunt resided, she did indicate that her great-aunt's husband, Dr. Paul Abel, fled Vienna shortly after the *Anschluss*, and that he married her great-aunt shortly thereafter; the CRT notes that Vienna matches the published city and country of residence of the Account Owner. Furthermore, the records of the Austrian State Archive regarding Franziska Löwner provide independent verification that the city and country of residence, and the district number of the city of residence of the Account Owner match the city and country of residence and district number of the city of residence recorded in the Bank's records. The CRT notes that the Claimant also provided the Account Owner's name variation of Fanny, and her year of birth, which match the information contained in the Austrian State Archive records regarding Franziska Löwner.

The CRT notes that the name Franziska Löwner appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP 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 her relative was Jewish and resided in Austria after the *Anschluss*. The CRT notes that the Account Owner was required to register her assets pursuant to the 1938 Census.

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's

paternal great-aunt by marriage. These documents include the Claimant's family tree, which indicates that the Account Owner was married to Dr. Paul Abel, who was the brother of Dr. [REDACTED]; her father's birth certificate, which indicates that [REDACTED] was the son of Dr. [REDACTED]; and her father's death certificate, which indicates that [REDACTED] was the daughter of [REDACTED].

The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

#### The Issue of Who Received the Proceeds

The Bank's records indicate that the balance of the custody account was transferred to the *Oesterreichische Creditanstalt-Wiener Bankverein* on 17 June 1938, and that the account was subsequently closed on 15 December 1938.

Given that there is no record of the payment of the Account Owner's account to her; 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 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 her 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 Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her paternal great-aunt by marriage, 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 custody account, which had a balance of SF 1,000.00 at the time that balance was transferred to the Vienna branch of the *Oesterreichische Creditanstalt* on 17 June 1938. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. 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. Consequently, the total award amount in this case is SF 162,500.00.

### **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  
26 November 2008