

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3]
represented by Dr. Karl Kuprian

in re Accounts of Franziska Maass-von Portheim

Claim Numbers: 501112/KG; 501199/KG; 501517/KG

Award Amount: 921,584.38 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) and [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) (together the “Claimants”) to the published accounts of Emil Portheim and Victor Portheim.² This Award is to the published accounts of Franziska Maass-von Portheim (the “Account Owner”), over which Emmy Meyer (the “Power of Attorney Holder”) held power of attorney 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 Claimants

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her maternal grandmother, Franziska (Fanny) Maass, née von Portheim, who was born on 3 April 1860 in Prague, Czechoslovakia (now the Czech Republic), and was married to [REDACTED], and identifying the Power of Attorney Holder as her mother, [REDACTED], née [REDACTED], who was born on 14 December 1884 in Berlin, Germany and who was Franziska Maass’ only child. Claimant [REDACTED 2] indicated that until 1939 her grandmother, who was Jewish, lived in Vienna, Austria, but that from 1940 to 1945 she was kept under house arrest at

¹ The CRT notes that [REDACTED 1] is acting on behalf of [REDACTED 3] and [REDACTED 2] in relation to her claims to the published accounts of [REDACTED] and [REDACTED].

² The CRT will treat the claim to these accounts in a separate decision.

Lindaustrasse 7, Bad Ischl, Austria. Claimant [REDACTED 2] further stated that her grandmother died on 4 April 1949 in Bad Ischl.

Claimant [REDACTED 2] submitted various documents in support of her claim, including:

- Franziska Maass' death certificate indicating that she was born on 3 April 1860 in Prague and that she passed away on 4 April 1949 in Bad Ischl;
- a report relating to the death of Franziska Maass, indicating her dates of birth and death and that her only daughter was [REDACTED], née [REDACTED], who was born in 1884;
- [REDACTED]'s death certificate indicating that she died on 17 July 1953 in Bad Ischl;
- a report relating to the death of [REDACTED], née [REDACTED], indicating that she was born on 14 December 1884, that she passed away on 17 July 1953, and that her children were Claimant [REDACTED 2] and [REDACTED 3];
- a certified copy of a letter dated 1 March 1939 from Fanny Maass to the District Court in Bad Ischl, in which she named her granddaughter, Claimant [REDACTED 2], as her sole heir;
- a protocol taken by the District Court of Bad Ischl on 27 April 1949 indicating that Claimant [REDACTED 2] had appeared at the Court and had stated, *inter alia*, that her grandmother's assets had been seized by the Gestapo;
- an application in connection with the will of Franziska Maass dated 8 February 1952 by her heir, Claimant [REDACTED 2];
- a certificate issued by the District Court of Bad Ischl on 8 February 1952 awarding the estate of Franziska Maass to her granddaughter Claimant [REDACTED 2] in accordance with Franziska Maass' will;
- a contract of transfer between [REDACTED] and Claimant [REDACTED 2] dated 16 November 1950 pursuant to which [REDACTED] transferred her real estate to her daughter for consideration, including money and the costs associated with her ongoing residence and care in one of the properties.

Claimant [REDACTED 2] stated that she was born on 6 November 1915 in Vienna. Claimant [REDACTED 2] represents her brother, [REDACTED 3], who was born on 14 November 1918 in Vienna.

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted Claim Forms identifying the Account Owner as her paternal aunt, Fanny Maass, née von Porthheim, who was born on 3 April 1860 and was married to Dr. [REDACTED]. Claimant [REDACTED 1] indicated that her aunt, who was Jewish, had only one child, [REDACTED], née [REDACTED], who in turn had two children: Claimant [REDACTED 2] and [REDACTED 3]. In support of her claim, Claimant [REDACTED 1]

submitted a detailed family tree, and her birth and marriage certificates, indicating her maiden name as [REDACTED 1], and that she was born in Vienna.

Claimant [REDACTED 1] stated that she was born on 15 March 1917 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of two customer cards and a printout from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) *Wwe.* (widow) Fanny Maass-von Portheim, who resided in Vienna, initially at Ring des 12. November, and subsequently at Dr. Karl Luegerring 6. The records indicate that the Power of Attorney Holder was her daughter, [REDACTED], née [REDACTED]. According to the Bank's records, the Account Owner held a custody account, numbered 31063, and a demand deposit account. The Bank's records indicate that the demand deposit account was closed some time before 20 July 1938, but the date of closure is not recorded. The Bank's records further indicate that the custody account was closed between 20 July 1938 and 31 December 1938, but the exact date of closure is not legible. The values of the accounts are not known.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, 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, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Franziska (Fanny) Maass, numbered 1886. The records indicate that Franziska Maass was born on 3 April 1860, was the widow of a senior legal counselor (*Justizrat*), and that she resided at Dr. Karl Luegerring 6 in Vienna 1.

An amendment filed on 12 December 1938 (the "December 1938 Amendment") submitted by Franziska Maas indicates that she owned real estate and land worth 111,376.00 Reichsmarks ("RM"), as well as bank accounts at banks in Austria and Czechoslovakia. The records state further that Franziska Maass was assessed a so-called preliminary "flight tax" (*Reichsfluchtsteuer*) of RM 111,381.00, based on an estimate of her total wealth of RM 445,524.00.

The 1938 Census records include a letter from the Bank dated 19 May 1938, filed with Franziska Maass' 1938 Census form, indicating that she held a custody account, numbered 31063, as well as a demand deposit account. The letter indicates that the custody account contained the following securities as of 26 April 1938:

- 3¹/₂% *Obl. Jura-Simplon-Bahn-Gesellschaft 1894* bonds with a nominal value of 3,000.00 Swiss Francs ("SF") and a market value of SF 3,033.00;
- 3% *Obl. Schweiz. Bundesbahnen 1938* bonds with a nominal value SF 65,000.00 and a market value of SF 65,000.00;
- 4% (*früher 2%*) *Bundeshauptstadt Wien 1931* with a nominal value of SF 10,000.00 and a market value of SF 3,200.00.

Thus, according to this letter, as of 26 April 1938 the total market value of the securities held in the custody account numbered 31063 was SF 71,233.00, and the value of the demand deposit account was SF 2,493.75. The December 1938 Amendment indicates that the 3¹/₂% *Obl. Jura-Simplon-Bahn-Gesellschaft 1894* bonds had been handed over to the *Reichshauptbank* and sold, that the 4% (*früher 2%*) *Bundeshauptstadt Wien 1931* bonds had been handed over to the *Oesterreichische Creditanstalt-Wiener Bankverein*, and that Franziska Maas had been ordered to deposit the 3% *Obl. Schweiz. Bundesbahnen 1938* bonds at the *Länderbank-Aktiengesellschaft*.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name, city and country of residence of Claimant [REDACTED 2]'s grandmother and Claimant [REDACTED 1]'s aunt match the published name, city and country of residence of the Account Owner. Claimant [REDACTED 2]'s mother's name and Claimant [REDACTED 1]'s cousin's name match the published name of the Power of Attorney Holder. The Claimants indicated that the Account Owner and the Power of Attorney Holder were mother and daughter, which matches unpublished information contained in the Bank's records about the relationship between the Account Owner and the Power of Attorney Holder. Claimant [REDACTED 2] also identified Franziska Maass' date of birth, which matches unpublished information contained in the 1938 Census records.

In support of her claim, Claimant [REDACTED 2] submitted documents, including:

- Franziska Maass' death certificate indicating that she was born on 3 April 1860 in Prague, and that she passed away on 4 April 1949 in Bad Ischl;
- a report relating to the death of Franziska Maass, indicating her dates of birth and death and that her only daughter was [REDACTED], née [REDACTED], who was born in 1884;
- [REDACTED]'s death certificate indicating that she died on 17 July 1953 in Bad Ischl;

- a report relating to the death of [REDACTED], née [REDACTED], indicating that she was born on 14 December 1884, that she passed away on 17 July 1953, and that her children were Claimant [REDACTED 2] and [REDACTED 3].
- a certified copy of a letter dated 1 March 1939 from Fanny Maass to the District Court in Bad Ischl in which she named her granddaughter, Claimant [REDACTED 2], as her sole heir; and
- a protocol taken by the District Court of Bad Ischl on 27 April 1949 indicating that Claimant [REDACTED 2] had appeared at the Court and stated, inter alia, that her grandmother's assets had been seized by the Gestapo.

These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country as the name and country of residence of the Account Owner recorded in the Bank's records, and that the person who is claimed to be the Power of Attorney Holder had the same name recorded in the Bank's records as the name of the Power of Attorney Holder.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish and that she lived under house arrest in Bad Ischl from 1940 until 1945.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her grandmother. These documents include:

- a report relating to the death of Franziska Maass, indicating her dates of birth and death and that her only daughter was [REDACTED], née [REDACTED] who was born in 1884;
- a certified copy of a letter dated 1 March 1939 from Fanny Maass to the District Court in Bad Ischl, in which she named her granddaughter, Claimant [REDACTED 2], as her sole heir;
- a certificate issued by the District Court of Bad Ischl on 8 February 1952 awarding the estate of Franziska Maass to her granddaughter, Claimant [REDACTED 2], in accordance with Franziska Maass' will;
- a report relating to the death of [REDACTED], née [REDACTED], indicating that she was born on 14 December 1884, that she passed away on 17 July 1953 and that her children were Claimant [REDACTED 2] and [REDACTED 3];

Claimant [REDACTED 1] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information and a detailed family tree, demonstrating that the Account Owner was her aunt. The CRT notes that Claimant [REDACTED 1] submitted unpublished information as contained in the Bank's records. The CRT further notes that the information submitted by Claimant [REDACTED 1] corresponds with that provided by Claimant [REDACTED 2]. 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 Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that the Account Owner lived in Austria under house arrest throughout the Second World War, and therefore could not have repatriated the accounts without losing ultimate control over its proceeds; and given the application of Presumptions (d), (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, the Power of Attorney Holder 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 Claimant [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 2], as the Account Owner's sole heir, has a better entitlement to the accounts than the Account Owner's niece and nephew, Claimant [REDACTED 1] and her brother [REDACTED 3], whom she represents, who were not named as beneficiaries under the Account Owner's will.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account. The

1938 Census records indicate that the value of the custody account as of 26 April 1938 was SF 71,233.00 and the value of the demand deposit account was SF 2,493.75, for a combined value of SF 73,726.75 for the two accounts. The current value of the amount of the award is determined by multiplying the historic values of the accounts 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 921,584.38.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for the distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, Claimant [REDACTED 2] has submitted a certified copy of a letter dated 1 March 1939 from the Account Owner to the District Court in Bad Ischl, in which she named Claimant [REDACTED 2] as her sole heir, together with a certificate issued by the District Court of Bad Ischl, dated 8 February 1952, awarding the estate of the Account Owner to Claimant [REDACTED 2] in accordance with the Account Owner's will. Accordingly, Claimant [REDACTED 2] is solely entitled to the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
14 December 2005