

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
represented by Stephen M. Harnik

## **in re Accounts of Fritz May**

Claim Number: 500813/NP<sup>1</sup>

Award Amount: 432,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Fritz May (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 his father’s cousin, Dr. Fritz (or Friedrich) May, who was born on 8 July 1889 in Ungarisch Ostrau, Austria-Hungary (now Uhersky Ostroh, Czech Republic), and who was never married. The Claimant indicated that Fritz May’s parents, [REDACTED] and [REDACTED], née [REDACTED], had two other sons, [REDACTED] and *Dipl. Ing.* [REDACTED],<sup>2</sup> and a daughter, [REDACTED], née [REDACTED]. The Claimant indicated that Fritz May’s mother, [REDACTED], was the sister of [REDACTED], the Claimant’s paternal grandfather. The Claimant further indicated that his father’s cousin, who was Jewish, was an industrialist with both Czech and Austrian citizenship. In addition, the Claimant indicated that his father’s cousin resided at Jörgerstrasse 32 in Vienna, Austria from 1930 until 1937. Further, the Claimant indicated that his father’s cousin moved to Jacquingasse 33 in Vienna in 1937, and to the Hotel Bauer au Lac in Zurich, Switzerland, in 1938. The Claimant also indicated that his father’s cousin periodically stayed in Locarno,

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<sup>1</sup> The Claimant submitted additional claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 500811 and 500812, respectively. The CRT will treat the claims to these accounts in separate determinations. In addition, the Claimant submitted a claim to the account of [REDACTED], née [REDACTED], which is registered under the Claim Number 500814. In a separate decision, the CRT denied the Claimant’s claim to this account. See *In re Accounts of* [REDACTED] (approved on 11 April 2005).

<sup>2</sup> The CRT notes that the title *Dipl. Ing.* is bestowed on individuals who hold a graduate degree in engineering.

Switzerland, during his residence in Switzerland. The Claimant further indicated that his father's cousin moved to Canada in 1946. In a telephone conversation with the CRT on 28 October 2005, the Claimant stated that he believed that his father's cousin fled to Switzerland after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). The Claimant further indicated that his father's cousin's brother, [REDACTED], who was homosexual and Jewish, remained in Vienna after the *Anschluss* and went into hiding with the help of an underground group. The Claimant further indicated that [REDACTED]" and "[REDACTED]" were aristocratic names conferred on the families May and [REDACTED] by the Austrian Kaiser. Finally, the Claimant indicated that his father's cousin died in Victoria, British Columbia, Canada, in 1949.

The Claimant submitted a copy of a deed, dated 11 April 1938 in Locarno, with a file number from the Vienna Finance Office for Transaction Taxes ("*Finanzamt für Verkehrsteuern Wien*"), dated 10 December 1946. According to this deed, Dr. Fritz May, residing at the Hotel Bauer au Lac in Zurich, sold his one-third ownership of a house located at Börsendorferstrasse 9 in Vienna to [REDACTED], an engineer who resided at that address in Vienna.

The CRT notes that, 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 his claim to the accounts of [REDACTED],<sup>3</sup> the Claimant submitted a copy of a document from the 1938 Census records of [REDACTED], numbered 20447, which indicates that, as of 27 April 1938, *Dipl. Ing.* [REDACTED] owned one-third of an apartment building located at Börsendorferstrasse 9 in Vienna, and was in the process of acquiring an additional one-third of the property. The Claimant indicated that he was born on 26 June 1928 in Pecs, Hungary.

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

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Fritz May, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held four demand deposit accounts, including a demand deposit account in United States Dollars and a demand deposit account in British Pounds, and two custody accounts, numbered L56080 and L41157.

The Bank's record indicates that one demand deposit account was closed on 30 June 1938, that the custody account numbered L56080 was closed on 2 July 1938, that both foreign currency demand deposit accounts were closed on 20 July 1938, that the custody account numbered L41157 was closed on 3 September 1938, and that the remaining demand deposit account was closed on 10 September 1938. The amounts in the accounts on the respective dates of their closures are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

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<sup>3</sup> As noted above, the CRT will treat the claim to this account in a separate determination.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's cousin's name and city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant identified the Account Owner's title, which matches unpublished information about the Account Owner contained in the Bank's record.

In support of his claim, the Claimant submitted documents, including a deed, which identifies Dr. Fritz May as the seller of real estate in Vienna, Austria, providing independent verification that the person who is claimed to be the Account Owner had the same name and had strong connections to the city recorded in the Bank's record as the name and city of residence of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Friedrich May, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT further notes that the name Fritz May appears only once 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. Finally, the CRT notes that there are no other claims to these accounts.

### 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 the Account Owner was Jewish, and that he fled Vienna after the *Anschluss*. As noted above, a person named Friedrich May was included in the CRT's database of victims. In addition, the CRT notes that the Claimant's brother was a Victim of Nazi Persecution. The Claimant stated that the Account Owner's brother, [REDACTED], was Jewish and a homosexual, and that he remained in Vienna in hiding after the *Anschluss*. The CRT notes that the 1938 Census records submitted by [REDACTED] confirm that he was residing in Vienna after the *Anschluss*.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father's cousin. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that the Claimant submitted a copy of a deed between Fritz May and [REDACTED], and additionally notes that it is plausible that this document is a document which most likely only a family member would possess. 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 the Claimant as a family member, and all of

this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

### The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that all of the accounts were closed between June and September 1938, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the accounts were closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 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 his father's cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held two custody accounts and four 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 ICEP ("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 34,560.00. 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 432,000.00.

### **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 his claim to determine whether there are additional Swiss bank accounts to which he 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  
31 December 2005