

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Wilhelm Schönfeld

Claim Numbers: 670008/KG; 715883/KG; and 754247/KG¹

Award Amount: 42,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née Schonfeld, (the “Claimant”) to the accounts of [REDACTED] and Wilhelm Schönfeld.² This Award is to the published accounts of Wilhelm Schönfeld (the “Account Owner”) at the [REDACTED] (“Bank 1”). This Award also discusses records pertaining to the Account Owner at the [REDACTED] (“Bank 2”), but does not award any accounts held at that 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 to the Holocaust Claims Processing Office (“HCPO”), an Initial Questionnaire (“IQ”) to the Court, and an ATAG Ernst & Young claim form (“ATAG Form”) identifying the Account Owner as her father, Zeev (Wilhelm) Schonfeld, who married [REDACTED] some time following the First World War. The Claimant indicated that she and

¹ [REDACTED] did not submit a Claim Form to the CRT. Instead she submitted a claim, numbered B-00383, on 17 April 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 670008. The Claimant also submitted an Initial Questionnaire (“IQ”) in 1999, numbered HEB 0133120, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 715883. Finally, the Claimant submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-G-71-215-172-319, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT 1”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT 1, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young, shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

² The CRT will treat the claim to the account of [REDACTED] in a separate determination.

her parents, who were Jewish, resided in Poland until 1934, at which time they emigrated to Palestine (now Israel). The Claimant indicated that her father died in 1970.

The HCPO submitted information from the Vienna City Archives on behalf of the Claimant, indicating that Wilhelm Schönfeld, who was Jewish, was born on 31 October 1886 in Tarnow, Poland, was an engineer, and was married to [REDACTED], who was born on 22 September 1891, resided at Neustiftgasse 53/36 in Vienna from 21 October 1933 until 20 February 1934. According to the Vienna City Archives, Wilhelm Schönfeld and his wife resided in Tarnow before living in Vienna, and after living in Vienna, they moved to Palestine.

The Claimant stated that her mother's brother, Dr. [REDACTED], who was Jewish, was born in Galicia, Poland, in approximately 1900, and served in the Austro-Hungarian army during the First World War. The Claimant indicated that until 1939, her uncle resided on Neustiftgasse in Vienna, Austria, where he was employed by the *Phoenix Insurance Company*. According to the Claimant, her uncle fled Vienna for Palestine in 1939 and that, in 1947, he immigrated to Canada. The Claimant indicated that her uncle died on 19 May 1978 in Toronto, Canada.

The HCPO also submitted information from the Vienna City Archives regarding the Claimant's uncle, indicating that Dr. [REDACTED], who was Jewish, was born on 1 July 1896 in Stanislaw, Poland, and that he resided at Neustiftgasse 53/36 in Vienna from 16 June 1931 until 21 September 1938, and that he later resided in Palestine.

In support of her claim, the Claimant submitted documents, including her identity card, indicating that her father's name was Wilhelm Zeev Schonfeld. The Claimant indicated that she was born on 2 September 1924 in Poland.

Information Available in the Banks' Records

Bank 1

Bank 1's record consists of a customer card. According to this record, the Account Owner was *Ing.* (Engineer) Wilhelm Schönfeld, who resided in Vienna. Bank 1's record indicates that the Account Owner held a demand deposit account, which was opened on 18 November 1933 and closed on 25 March 1939, and a safe deposit box, which was opened on 7 April 1937 and closed on 26 March 1939. The amounts in the accounts on their respective closure dates are unknown. There is no evidence in Bank 1's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Bank 2

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Wilhelm Schönfeld during their investigation of Bank 2. Bank 2's documents were obtained from the Bank by the HCPO on the Claimant's behalf and were forwarded to the CRT.

In response to an inquiry from the HCPO, the Bank wrote in a letter, dated 3 August 2000, that it had located documents relating to an account that Wilhelm Schönfeld apparently considered opening but never did.³ Bank 2 provided these documents to the HCPO, which forwarded them to the CRT. These documents consist of a power of attorney form, a signature sample sheet and a typed file note, dated 24 November 1938, together with an undated handwritten note. In its 2 August 2000 letter to the HCPO, Bank 2 noted that Dr. [REDACTED] had signed a power of attorney form that, once completed, would grant Dr. [REDACTED] and Wilhelm Schönfeld's wife, [REDACTED], née [REDACTED], power of attorney over an account held by Wilhelm Schönfeld. However, as Bank 2 indicated in its letter, the power of attorney form was never signed, and the typed file note dated 24 November 1938 indicates that the documents were filed away because the account was never opened. The incomplete power of attorney form indicates that *Ing.* (Engineer) Wilhelm Schönfeld lived in Haifa, Palestine (now Israel) and that Dr. [REDACTED] who resided on Neustiftgasse in Vienna and [REDACTED], née [REDACTED], were to have Power of Attorney over the account.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the published name of the Account Owner.⁴ The Claimant identified the Account Owner's country of residence after 1934 and the name and maiden name of the Account Owner's spouse, as well as the name and street address of the person who was to have been granted power of attorney, which matches unpublished information about the Account Owner contained in Bank 2's records. Information provided by the HCPO from the Vienna City Archives also indicate that the Claimant's father resided in Vienna at the time that the demand deposit account was opened. Further, Bank 2's records indicate that the Account Owner was an engineer and used the title "*Ing.*," which corresponds to unpublished information about the Account Owner in Bank 1's records. Thus, it is clear that the person for whom the power of attorney form was completed at Bank 2 was the same person who owned the account at Bank 1.

The CRT notes that the Claimant also identified the Account Owner's city of residence as indicated in Bank 1's records, which is supported by information from the Vienna City Archives,

³ The CRT has treated the Claimant's claim to this account in a separate determination. See *in re Accounts of Wilhelm Schönfeld* (approved on 30 September 2005).

⁴ The Claimant gave her father's surname as "Schonfeld" instead of "Schönfeld." However, given that umlauts are commonly omitted from the English rendition of German surnames, the CRT concludes that it is plausible that the correct original spelling was "Schönfeld."

and which matches unpublished information in Bank 1's records, and also matches to the unpublished city of residence of [REDACTED] contained in Bank 2's records. In addition, the CRT notes that the Claimant identified extensive unpublished information contained in Bank 2's records, including information about the Account Owner's potential Power of Attorney Holders, their street address in Vienna, and the Account Owner's subsequent country of residence.

In support of her claim, the Claimant submitted documents, including her identity card, indicating that her father's name was Wilhelm Zeev Schonfeld, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. The HCPO also submitted records from the Vienna City Archives, which also provide independent verification that the person who is claimed to be the Account Owner had the same name, street address, and city of residence recorded in the Banks' records as the name, street address, and city of residence of the Account Owner.

The CRT further notes that the Claimant filed an IQ with the Court in 1999, an ATAG Form and an HCPO claim in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED], and in the HCPO and ATAG Forms she stated that her father was Wilhelm Schonfeld, prior to the publication in February 2001 of the list of accounts determined by the ICEP Investigation to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

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, supported by information from the Vienna City Archives and the records from Bank 1 and Bank 2, 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 emigrated to Palestine in 1934. The CRT notes that Bank 1's records indicate that the Account Owner resided in Vienna, and Bank 2's records indicate that the Account Owner's brother-in-law resided in Vienna as late as 1938. Furthermore, information from the Vienna City Archives indicates that the Account Owner resided in Vienna in 1933 and 1934. The CRT finds it plausible that the Account Owner's account was targeted for repatriation because his residence was listed as Vienna.

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 father. These documents include the Claimant's identity card, which states that her father's

name was Wilhelm Zeev Schonfeld. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in Bank 2's records; that the Claimant filed an HCPO claim, an IQ and an ATAG Form, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. 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 she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The CRT notes that Bank 1's record indicates that the accounts were both closed in March 1939, at which time the Account Owner was outside Nazi territory. The CRT further notes that March 1939 is prior to the German invasion of Poland on 1 September 1939. However, the CRT also notes that Bank 1's records indicate that the Account Owner resided in Vienna, and Bank 2's records indicate that his brother-in-law resided there. The CRT further notes that the accounts were closed after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). Given that the Bank 1's records do not indicate to whom the accounts were closed, that the Account Owner either resided in Vienna or had family members who resided there, and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety; that Bank 1's records indicate a Vienna address for the Account Owner, and that the accounts may therefore have been targeted for repatriation, at which time the Account Owner would have lost ultimate control over his assets; 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 her father 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 one demand deposit account and one safe deposit box. 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”) and the average value of a safe deposit box was SF 1,240.00. The combined total for the two accounts is SF 3,380.00. 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 42,250.00.

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 claims 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
30 November 2005