

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by [REDACTED 2]
also acting on behalf [REDACTED 3] and [REDACTED 4]

in re Accounts of Anna Singer

Claim Numbers: 670022/AK; 784438/AK^{1,2}

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the accounts of [REDACTED].³ This award is to the unpublished accounts of Anna Singer (the “Account Owner”) at the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database (“TAD”) at 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 an Initial Questionnaire (“IQ”) to the Court and a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as his mother, Anna Singer, née Nichtern, who was born on 20 June 1892 in Austria, and was married to [REDACTED], who was born on 6 September 1875 in Vienna, Austria. The Claimant stated that Anna and [REDACTED] Singer, who were Jewish, had three children, [REDACTED 3], [REDACTED 4], and the Claimant, with whom they resided at Weimarerstrasse 22 in Vienna XVIII. The Claimant stated that his father was an accountant and businessman, who owned 50 percent of the company “*Adolf Eisenmann & Sohn, Papierwarenerzeugung*,” which was also located at

¹ The Claimant submitted a claim, numbered I-01192, on 5 November 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 670022.

² In 1999, the Claimant also submitted an Initial Questionnaire (“IQ”), numbered ENG-0566-193, 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 784438.

³ The CRT will treat the claims to these accounts in a separate decision.

Weimarerstrasse 22. The Claimant further stated that he and his brother, [REDACTED 4], lived at this address until September 1938, when they fled Vienna for London, the United Kingdom. Finally, the Claimant stated that his parents and sister remained in Vienna until they fled to New York, New York, the United States in 1940, after having been deprived of all their possessions by the Nazi authorities.

The Claimant submitted his own birth certificate, issued by the Jewish Community of Vienna on 29 October 1924, identifying his parents as [REDACTED] and Anna Singer, née Nichtern; his father's birth certificate, identifying him as [REDACTED], and indicating that he was born on 6 September 1875 in Vienna; an excerpt from a letter from [REDACTED], addressed to his sons in London, indicating that his business had been aryanized, that he was threatened with deportation to a concentration camp, and that he was forced to pay the atonement tax (*Judenvermögensabgabe*); a record from the Austrian State Archive (Archive of the Republic, Finance) concerning the assets of [REDACTED], further described below; the passport of [REDACTED], issued by the German Reich in 1939, indicating that he crossed the Austrian border into Italy with his daughter Eva on 25 March 1940, and that their destination was New York; Anna Singer's death certificate, indicating that she was born in Austria, last resided in New York, and passed away there in 1958, and that this information was provided by her daughter, [REDACTED 3]; and a photograph of [REDACTED]'s gravestone, indicating that he passed away in 1951. The Claimant indicated that he was born on 3 September 1924 in Vienna. The Claimant is representing his sister, [REDACTED 3], née [REDACTED], who was born on 24 July 1928 in Vienna, and his brother, [REDACTED 4], who was born on 21 September 1921 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of forms documenting accounts included in the 1945 freeze of assets held in Switzerland by citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"). According to these records, the Account Owner was *Frau* ("Mrs.") Anna Singer, an Austrian emigrant, who resided at 240 West 104 Street, Apt. 5 B in New York, New York, the United States. The Bank's records indicate that the Account Owner held one numbered demand deposit account and one numbered custody account, both with a designation 61867. The Bank's records further indicate that the demand deposit account was opened prior to 1 September 1939, and that it contained a balance of 710.40 Swiss Francs ("SF") on 17 February 1945. Regarding the custody account, the Bank's records indicate that it contained two securities, identified as *5% Garantierte Oesterreichische Konversionsanleihe 1934/59*, with a nominal value of SF 4,000.00, and *4% Stadt Wien 1931*, with a nominal value of SF 3,000.00. These securities had a total market value of SF 1,323.00 on 17 February 1945. A notation on the document references a letter, dated 11 November 1946, from the Swiss Clearing Office to the Bank, indicating that the accounts were unfrozen. 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 find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. There is no evidence in the Bank's records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

These accounts were not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,⁴ are composed of 1.9 million savings accounts with a 1930-1940s value of SF 250.00 or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is in the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution. The accounts awarded are part of a group of accounts identified in the TAD.

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 [REDACTED], numbered 27997. These records indicate that [REDACTED], who was born on 6 September 1875 in Vienna, was married to Anna Singer, née Nichtern. The records indicate that they resided at Weimarerstrasse 22 in Vienna, and that [REDACTED] owned 50 percent of a business named “*Adolf Eisenmann & Sohn, Papierwarenerzeugung*,” which was located at the same address and which was worth 32,539.55 Reichsmark (“RM”). The records further indicate that Julius and Anna Singer had three children, who were nine, 13, and 15 years old on the date [REDACTED] signed his asset declaration, on 15 July 1938. The file also contains correspondence, including a flight tax (*Reichsfluchtsteuer*) assessment, dated 20 March 1939, which indicates that [REDACTED]’s assets were worth RM 87,973.00 and his flight tax liability, after deduction of a payment of RM 10,000.00 in atonement tax, at RM 19,493.00. The correspondence also includes an update of [REDACTED]’s asset declaration, signed 21 February 1939, which indicates that his business had been aryanized and that his remaining assets in the amount of RM 29,720.00 had been confiscated. The records make no mention of assets held in a Swiss bank 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 two claims of the Claimant in one proceeding.

⁴ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's name, nationality, and city and country of residence match the unpublished name, nationality, and city and country of residence of the Account Owner. In support of his claim, the Claimant submitted documents, including the death certificate of Anna Singer, providing independent verification that the person who is claimed to be the Account Owner had the same name and nationality, and resided in the same city recorded in the Bank's records as the name, nationality and city of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different nationality or city and country of residence than the nationality and city and country of residence of 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 the Account Owner was Jewish, that she resided in Vienna, Austria after the incorporation of Austria into the Reich in March 1938 (the "Anschluss"), and that her husband's assets were confiscated by the Nazi authorities, after which she and her family fled Austria for the United States in 1940. The Claimant also submitted an excerpt of a letter written by his father, which indicates that the Account Owner's husband was threatened with deportation to a concentration camp, that his business was aryanized, and that he was forced to pay atonement tax (*Judenvermögensabgabe*).

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's mother. These documents include his own birth certificate, indicating that he is the son of Julius and Anna Singer, née Nichtern. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner's accounts were included in the 1945 Freeze, and that there is no indication that the Account Owner was in contact with the Bank after the accounts were unfrozen in 1946; that there is no record of the payment of the Account Owners' accounts to her, nor any record of a date of closure of the accounts; that the Account Owner and her heirs would not have been able to obtain information about her 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 (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 claims are 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 mother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her 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 custody account. The Bank's records indicate that the value of the demand deposit account as of 17 February 1945 was SF 710.40. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 65.00, which reflects numbered account fees and standardized bank fees charged to this demand deposit account in 1945. Consequently, the adjusted balance of the account at issue is SF 775.40. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00.

With respect to the custody account, the Bank's records indicate that the value of this account as of 13 August 1945 was SF 1,323.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 100.00, which reflects numbered account fees and standardized bank fees charged to the custody account in 1945. Consequently, the adjusted balance of the account at issue is SF 1,423.00. 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 balances as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

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. In this case, the Claimant, the Account Owner's son, is representing his siblings, [REDACTED 3] and [REDACTED 4]. Accordingly, the Claimant, [REDACTED 3], and [REDACTED 4], are each entitled to one-third 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 his claims 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
21 September 2005

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