

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Josefine Steiner

Claim Numbers: 004130/AZ, 717247/AZ¹

Award Amount: 474,820.88 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Josefine Steiner (the “Account Owner”) at the Amsterdam branch of the [REDACTED] which was a subsidiary (“Subsidiary”) of the [REDACTED] (“Bank I”),² and at the Zurich branch of an unnamed bank (“Bank II”) (together the “Banks”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the names of the banks has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire identifying the Account Owner as her paternal grandmother, [REDACTED], née [REDACTED], who was born in approximately 1878 or 1879, and was married to [REDACTED], who was born on 2 September 1862. The Claimant indicated that her grandparents, who were Jewish, lived in Vienna, Austria, and had one child, [REDACTED], the Claimant’s father, who was born on 16 June 1897 in Vienna. The Claimant stated that her grandmother deposited money in a Swiss bank shortly prior to the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”). The Claimant further indicated that her grandfather died in Vienna, and that after the *Anschluss*,

¹ In 1999, the Claimant submitted an Initial Questionnaire (“IQ”), numbered HEB-0166012, 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 717247.

² The CRT notes that [REDACTED] was a subsidiary fully owned by Bank I, and that it served the purpose of enabling Bank I to transfer and hold assets abroad. Most of the assets held at the subsidiary were transferred to the United States after the outbreak of the Second World War and the freeze of Dutch assets. The subsidiary itself was liquidated in 1941. See Jung, Joseph (ed.), *Zwischen Bundeshaus und Paradeplatz: [REDACTED] im Zweiten Weltkrieg* (Between Parliament and Paradeplatz: The Banks of the [REDACTED] in the Second World War), Zurich: NZZ Verlag, pp. 435, 436, 483, 524, and 525.

her grandmother fled from Vienna to Zagreb, Yugoslavia, where she perished in approximately 1941 or 1942. The Claimant stated that her father attempted to contact the Bank regarding his mother's accounts on several occasions both during and after the War, but that the Bank did not respond to his inquiries.

In support of her claim, the Claimant submitted documents, including: 1) a copy of her father's birth certificate, indicating that [REDACTED] was born on 16 June 1897 at Obere Donaustrasse 73 in Vienna II to [REDACTED] and [REDACTED], née [REDACTED]; and 2) a copy of her own birth certificate, indicating that her father was [REDACTED]. The Claimant indicated that she was born on 30 June 1936 in Vienna.

Information Available in the Bank's Records

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 Josefine Steiner during their investigation of the Bank.

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 Josefine Steiner, numbered [REDACTED]. These documents indicate that Josefine Steiner was born on 14 April 1878, resided at Obere Donaustrasse 73 in Vienna II, and was a widow. These records also include a file closing notice (*Aktenabschluss*), dated 2 May 1939, indicating that Josefine Steiner had fled to Yugoslavia.

In addition, these records contain documents evidencing account ownership at the Banks. In particular, these documents include a letter from Bank I to Josefine Steiner, dated 5 May 1938, indicating that as of 28 April 1938 she held three demand deposit accounts at the Subsidiary, with balances of 359.55 Swiss Francs ("SF"); 522.22 United States Dollars ("US \$"), or SF 2,266.45; and 44.3.1 Pound Sterling ("£"), or SF 957.00. The records contain no further information regarding the disposition of these accounts.

These documents also include a handwritten listing of securities, their values and the places they were held. This list carries a handwritten head note indicating that it is a copy and that the original statements from the banks are attached to the original declaration (*liegt der I. Ausfertigung bei*). The list indicates that Josefine Steiner held the following securities in Zurich, Switzerland, as of 27 April 1938:

- Shares of *Mannesmann[röhren] W[erke] Düsseldorf*, an illegible security, with a nominal value of 1,200.00 Reichsmark ("RM") and a market value of RM 1,392.00;

- 110 shares of *Assoc. Tin Mines of Nigeria*, with a market value of SF 775.00;
- 30 shares of *The Brit. Aluminium Co.*, with a market value of SF 1,719.00;
- Shares of *Ord. Stock Imper. Chem. Ind.*, with a nominal value of £ 50.0.0 and a market value of SF 1,748.00;
- 75 units of *Obl. var. Donau Save Adria E[isen] B[ahn]....* bonds, with a market value of SF 1,425.00;
- *4½% Empr. francais de Con[version]. & Dons[o]lid[a]t[i]on caisse autonome 1929* bonds, with a nominal value of 5,000.00 French Francs (“FF”) and a market value of SF 499.00;
- *4% Obl. Chemin de fer du Midi 1930* bonds, with a nominal value of FF 15,000.00 and a market value of SF 1,020.00;
- *7½% Pf[and]br[iefe] Innerst[ädtische] Spark[asse] B[u]d[a]pest* bonds, with a nominal value of £ 200.0.0 and an unknown market value;
- *6% Obl. Voralb. Illwerke 1929* bonds with a nominal value of £ 400.0.0 and a market value of SF 2,601.00;
- *7% Pf[and]br[iefe] Pester Ungar[ische] Commerzb[ank] 1929* bonds, with a nominal value of US \$1,000.00 and an unknown market value;
- *4-1/8% / 4-3/8% Readj.: Bds Province of Buenos Ayres* bonds, with a nominal value of US \$1,000.00 and a market value of SF 2,311.00;
- *6½% Obl. Soc[ieta] Idroelet[trica] Piemonte Ser. A 1960* bonds, with a nominal value of US \$1,000.00 and a market value of SF 3,952.00;
- *7% Obl. Rima Steel Corp. per 1955* bonds, with a nominal value of US \$2,000.00 and a market value of SF 2,604.00.

The records contain no further information regarding the disposition of this 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.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s grandmother’s name matches the published name of the Account Owner. The Claimant also identified the Account Owner’s year of birth, city of residence, street address, and the country to which she fled, which match unpublished information about the Account Owner contained in the 1938 Census records.

In support of her claim, the Claimant submitted documents, including her father’s birth certificate, identifying his mother as [REDACTED] and indicating that she resided in Vienna, providing independent verification that the person who is claimed to be the Account Owner had

the same name and resided in the same town recorded in the 1938 Census records as the name and city of residence of the Account Owner.

The CRT notes that the Claimant filed both her Claim Form and Initial Questionnaire prior to the publication of the List of Account Owners determined by ICEP to be probably or possibly those of Victims of Nazi Persecution and published in 2005 (the “2005 List”). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the 2005 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 2005 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 2005 List. This supports the credibility of the information provided by the Claimant. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different date of birth and country of residence than the date of birth 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, and that she fled Nazi-controlled Austria after the *Anschluss*. The CRT notes that the 1938 Census records confirm that the Account Owner had fled from Austria to Yugoslavia by May 1939.

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 grandmother. These documents include the Claimant’s birth certificate, identifying her father as [REDACTED], and her father’s birth certificate, identifying his mother as [REDACTED], née [REDACTED]. 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 until she fled to Yugoslavia, and therefore could not have repatriated the accounts without losing ultimate control over their proceeds; and given the application of Presumptions (d), (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 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 grandmother, 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 three demand deposit accounts at the Subsidiary of Bank I and securities deposited in Zurich. With respect to the demand deposit accounts held at the Subsidiary of Bank I, a letter from Bank I contained in the Account Owner's 1938 Census records indicate that the values of the accounts as of 28 April 1938 were SF 359.55; US \$522.22; and £ 44.3.1. The CRT notes that Bank I applied different exchange rates than the ones recognized as the official rates by the CRT. According to the CRT's official rates rates, the balances of the accounts were SF 359.55, SF 2,282.10, and SF 943.49, respectively.³ 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. Accordingly, the amounts in the two demand deposit accounts containing less than SF 2,140.00 shall be determined to be SF 2,140.00. Consequently, the basis for the award for the demand deposit accounts held at the Subsidiary of Bank I is determined to be SF 6,562.10. 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 an award amount of SF 82,026.25 for these three accounts.

With respect to the securities deposited in Zurich, according to the Guidelines for the Valuation of Securities, circulated by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. Market value shall be awarded if the market value was above the nominal value on the date the account owner is deemed to have lost control over the account. Stocks are valued at market value. Thus, the securities held in the custody account and listed in the Account Owner's 1938 Census declaration shall be valued as follows:⁴

³ The CRT uses official exchange rates when converting the amounts in foreign currencies into Swiss Francs.

⁴ Sources for the determination of whether or not a security was in default and for price quotations not available in the claim or account documentation were *Compass, Finanzielles Jahrbuch, 1940: Ungarn*, pp. 76, 157, 159-60, 168, 173-74 (Vienna: 73rd ed., Compassverlag, 1940); *Moody's Manual of Investments, American and Foreign: Banks - Insurance Companies - Investment Trusts - Real Estate - Finance and Credit Companies* pp. 799-800, 1,386 (New York: Moody's Investors Service, 1940); *Moody's Manual of Investments, American and Foreign: Government Securities* pp. 1,808, 1,875 (New York: Moody's Investors Service, 1940); *Moody's Manual of Investments, American and Foreign: Railroad Securities*, pp. 1,887, 1,900 (New York: Moody's Investors Service, 1940); *Moody's Manual of Investments, American and Foreign: Public Utility Securities*, p. 2,017 (New York: Moody's Investors Service, 1940); *New York Times*, 28 April 1938 (foreign bond tables); *The Stock Exchange Official Year-Book*, pp. 489, 2,164 (London: Thomas Skinner, 1940). The CRT also uses price and quality information from its database of information from certified awards.

- Shares *Mannesmann[röhren] W[erke] Düsseldorf*, with a market value of RM 1,392.00, which was equivalent to SF 2,444.35.
- 110 shares of *Assoc. Tin Mines of Nigeria*, with a market value of SF 775.00;
- 30 shares of *The Brit. Aluminium Co.*, with a market value of SF 1,719.00;
- Shares of *Ord. Stock Imper. Chem. Ind.*, with a market value of SF 1,748.00.
- 75 units of *Obl. var. Donau Save Adria E[isen] B[ahn]* bonds, with a market value of SF 1,425.00. According to Moody's 1940, the nominal value of these bonds was SF 7,149.46. Because these bonds were not in default, and because the nominal value is above the market value, their value is determined to be SF 7,149.46.
- *4½% Empr. français Conv[ersion] & Cons[olidat]ion Caisse autonome 1929* bonds, with a nominal value of 5,000.00 French Francs ("FF"), which was equivalent to SF 630.00, and a market value of SF 499.00. Because these bonds were not in default, and because the nominal value is above the market value, the value is determined to be SF 630.00.
- *4% Obl. Chemin de fer du Midi 1930* bonds, with a nominal value of FF 15,000.00, which was equivalent to SF 1,890.00, and a market value of SF 1,020.00. Because these bonds were not in default, and because the nominal value is above the market value, the value is determined to be SF 1,890.00.
- *7½% Pf[and]br[iefe] Innerst[ädtische] Spark[asse] B[u]d[a]pest* bonds, with a nominal value of £ 200.0.0, which was equal to SF 4,274.00, and a market value of SF 598.36. Because these bonds were in default, their value is determined to be SF 598.36.
- *6% Obl. Voralb. Illwerke 1929* bonds with a nominal value of £ 400.0.0, which was equal to SF 8,548.00, and a market value of SF 2,601.00. Because these bonds were in default, their value is determined to be SF 2,601.00.
- *7% Pf[and]br[iefe] Pester Ungar[ische] Commerzb[ank] 1929* bonds, with a nominal value of US \$1,000.00, which was equal to SF 4,370.00, and a market value of SF 524.40. Because these bonds were in default, their value is determined to be SF 524.40.
- *4-1/8% / 4-3/8% Readj.: Bds Province of Buenos Ayres* bonds, with a nominal value of US \$1,000.00, which was equal to SF 4,370.00, and a market value of SF 2,311.00. Because these bonds were not in default, and because the nominal value is above the market value, their value is determined to be SF 4,370.00.
- *6½% Obl. Soc[ieta] Idroelet[trica] Piemonte Ser. A 1960* bonds, with a nominal value of US \$1,000.00, which was equal to SF 4,370.00, and a market value of SF 3,952.00. Because these bonds were not in default, and because the nominal value is above the market value, their value is determined to be SF 4,370.00.
- *7% Obl. Rima Steel Corp. per 1955* bonds, with a nominal value of US \$2,000.00 and a market value of SF 2,604.00. Because these bonds were in default, the value is determined to be SF 2,604.00.

Thus, the total value of the securities is SF 31,423.57. 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 an award amount of SF 392,794.63 for this account.

Consequently, the total award amount is SF 474,820.88.

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
28 June 2006