

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Michael Schnitzler,
also acting on behalf of Lilly Schnitzler and Peter Schnitzler

to Claimant Lorle Wolfson,
also acting on behalf of Thomas Patzau, Kimberly Mathewson and Mark Bushnell

and to Claimant John de Strakosch
also acting on behalf of Peggy de Strakosch and the Hans and Maria de Strakosch Trust

in re Account of Wally Strakosch-Feldringen and Hans Strakosch-Feldringen

Claim Numbers: 402231/WT; 402232/WT; 402233/WT

Award Amount: 178,605.00 Swiss Francs

This Certified Award is based upon the claim of Michael Schnitzler (“Claimant Schnitzler”), the claim of Lorle (Eleonore) Wolfson, née Patzau (“Claimant Wolfson”), and the claim of John de Strakosch (“Claimant de Strakosch”) (together the “Claimants”) to the account of Wally Strakosch-Feldringen (“Account Owner Wally Strakosch-Feldringen”). This Award is to the published account of Account Owner Wally Strakosch-Feldringen and Hans Strakosch-Feldringen (“Account Owner Hans Strakosch-Feldringen”) (together the “Account Owners”) at the Zurich branch of [REDACTED] (the “Bank”).

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

Information Provided by the Claimants

The Claimants, who are cousins, each submitted a Claim Form, identifying Account Owner Wally Strakosch-Feldringen as their grandmother, Wally Strakosch-Feldringen, née Duschnitz, who was born on 1 May 1884 in Vienna, Austria, and was married to Siegfried Strakosch-Feldringen on 4 September 1909 in Vienna. The Claimants stated that their grandmother, who was Jewish, was a housewife who resided at Sternwartestrasse 56 in Vienna. The Claimants further identified Account Owner Hans Strakosch-Feldringen as Hans Strakosch-Feldringen (later de Strakosch), who was Wally Strakosch-Feldringen’s son and Claimant de Strakosch’s father. The Claimants explained that their grandparents also had two daughters: Christl Patzau, née Strakosch-Feldringen (Claimant Wolfson’s mother), and Lilly Schnitzler, née Strakosch-Feldringen (Claimant Schnitzler’s mother).

The Claimants explained that Siegfried Strakosch-Feldringen died in 1933, and that after the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”), Wally Strakosch-Feldringen and her three children fled Austria to the United States. The Claimants stated that Wally Strakosch-Feldringen fled first to Zurich, Switzerland, where her cousin Helene Brettauer and Helene’s husband Emil Brettauer resided, and from Switzerland to England, Cuba, and finally to the United States, where she arrived in New York in 1940.

The Claimants stated that in 1959, their grandmother returned to Vienna, where she died on 22 November 1970. The Claimants indicated that Hans Strakosch-Feldringen died on 10 March 1995 in Los Angeles, California, the United States.

In support of their claims, the Claimants submitted copies of documents, including: (1) an asset declaration that Wally Strakosch-Feldringen was obliged to submit to the Nazi authorities in 1938, which is further described below; (2) Claimant de Strakosch’s birth certificate, indicating that John de Strakosch was born on 30 June 1948 in Santa Monica, California, the United States, and that his father was Hans de Strakosch, who was born in Vienna; (3) their grandmother’s last will, indicating that Wally Strakosch-Feldringen’s heirs were her children Hans de Strakosch, Christl Patzau and Lilly Schnitzler, and her grandchildren John de Strakosch, Peggy de Strakosch, Thomas Patzau, Eleonore Wolfson, Marietta Bushnell, Peter Schnitzler and Michael Schnitzler; (4) their grandmother’s death certificate, indicating that Wally Strakosch-Feldringen died on 22 November 1970 in Vienna.

Claimant Wolfson also submitted a copy of the will of her mother, Christl Patzau, which indicates that her heirs were her children Marietta Boyer, Lorle Wolfson, and Thomas Patzau. Claimant Wolfson also submitted the last will of her sister, Marietta Boyer, which indicates that her heirs were her children Kimberly Mathewson and Mark Bushnell.

Claimant de Strakosch submitted his own birth certificate, which indicates that he is the son of Hans de Strakosch and Josephine Wessely, who were both born in Vienna. Claimant de Strakosch also indicated that he was the trustee of the Hans and Maria de Strakosch Trust established for the benefit of Hans de Strakosch’s two children, John de Strakosch and Peggy de Strakosch. Although Claimant de Strakosch did not include a copy of the trust agreement with his claim form, he did state that the Hans and Maria de Strakosch Trust is the heir to the estate of Hans Strakosch-Feldringen.

Claimant Schnitzler indicated that he was born on 7 August 1944 in Berkley, California. Claimant Schnitzler is representing his mother, Lilly Schnitzler, who was born on 3 July 1911 in Vienna, and his brother, Peter Schnitzler, who was born on 8 April 1937 in Vienna.

Claimant Wolfson indicated that she was born on 26 July 1932 in Vienna. Claimant Wolfson indicated that her mother, Christl Patzau, died on 31 May 1997 in Bryn Mawr, Pennsylvania. Claimant Wolfson is representing her brother, Thomas Patzau, who was born on 12 November 1936 in Vienna; and the children of her late sister Marietta Boyer: Kimberly Mathewson, who was born on 17 January 1962 in Boston, Massachusetts, and Mark Bushnell, who was born on 31 March 1964 in Boston.

Claimant de Strakosch indicated that he was born on 30 June 1948 in Santa Monica. Claimant de Strakosch is representing his sister, Peggy de Strakosch, who was born on 9 September 1950 in Santa Monica, and the Hans and Maria de Strakosch Trust.

Information Available in the Bank's Records

The CRT notes that the Bank was liquidated in 1939 and was not investigated as part of the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”).¹ The documents evidencing an account belonging to Wally Strakosch-Feldringen and Hans Strakosch-Feldringen were obtained from the Austrian State Archive and are further described below.

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 Wally Strakosch-Feldringen, numbered 5075, and Hans Strakosch-Feldringen, numbered 17763.

These records pertaining to Wally Strakosch-Feldringen include her asset declaration, signed by her in Vienna on 11 July 1938, various correspondence, and a flight tax assessment. According to her asset declaration, Wally Strakosch-Feldringen was born on 1 May 1884, lived at Sternwartestrasse 56 in Vienna, and was the co-owner of two companies, *Fa. A. Eggers Sohn* and *Hohenauer Zuckerfabrik der Brüder Strakosch*. In her declaration, Wally Strakosch-Feldringen reported owning various assets, including cash assets worth 161,529.63 Reichsmark (“RM”); and metal, luxury objects, and art work worth RM 19,358.34. She also reported owning one-fifth of a custody account at the Bank, and that the value of that share was RM 1,628.88, as detailed in an attachment (*Beilage*) to the declaration, which consists of a letter from the Bank to Dr. Georg von Strakosch of Vienna and siblings (*Dr. Georg von Strakosch und Geschwister, Wien*), dated 28 June 1938, regarding a custody account numbered 434. According to this letter, as of 27 April 1938, this custody account contained the following securities:

- 5% *Postal Telegraph and Cable Corp.* 1953 bonds with a nominal value of 15,000.00 United States Dollars (“US \$”);
- 5% *Chicago Milwaukee St. Paul and Pacific Railroad Co.* A 1975 bonds with a nominal value of US \$4,000.00;
- 5% *Chicago Milwaukee St. Paul and Pacific Railroad Co. adj.* A 2000 bonds with a nominal value of US \$12,000.00; and
- 150 shares of *U.S. Realty and Improvement Co.*

¹ See Hanspeter Lussy *et al*, *Schweizerische Wertpapiergeschäfte mit dem “Dritten Reich”: Handel, Raub und Restitution* (Swiss Securities Dealings with the Third Reich: Trade, Theft and Restitution) at 46 (Chronos Verlag, Zurich 2001). See also *In re Accounts of Albert Schneider and Erich Schneider* (approved on 25 October 2004) (account registry card indicated Bank was in liquidation in 1938 and merging with *A.G. Leu*).

The Bank's letter indicates that these assets had a total value of 14,288.40 Swiss Francs ("SF"), and that the one-fifth interest owned by Wally Strakosch-Feldringen and Hans Strakosch-Feldringen each had a value of SF 2,857.68, which the Bank determined was equivalent to RM 1,628.88. The Bank's letter indicates that the securities in the custody account were held in an account in the Bank's name for the benefit of the Account Owners at a correspondent bank in New York ("*Die im Ausland aufbewahrten Titel liegen unter unserm Namen, jedoch für Ihre Rechnung und Gefahr bei unseren Korrespondenten*").

Wally Strakosch-Feldringen's file also contains a letter dated 15 December 1938 from a Dr. Schleussner, who was appointed on 2 August 1938 to administer her assets, to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*, or "VVSt."). According to this letter, the total value of her assets as of 27 April 1938 was RM 328,057.75. Amounts totaling RM 249,701.00 (for debt owed on back taxes) and RM 48,000.00 (for debt owed for pension payments (*Rentenlast*)) were subtracted from this amount, leaving a balance of RM 30,356.75. According to Dr. Schleussner, as of 12 November 1938 her cash assets declined by RM 304,788.80, and she had paid flight tax (*Reichsfluchtsteuer*) of RM 75,324.00, leaving a negative balance (*Minusvermögen*) of RM 349,758.05 as of 12 November 1938. A definitive flight tax assessment, dated 15 August 1939, is included in the file and notes that it takes the place of the assessment of 27 November 1938. According to this definitive assessment, the flight tax was determined to be RM 58,442.00 based on total assets of RM 233,770.00.

The records pertaining to the assets of Hans Strakosch-Feldringen include his asset declaration, signed by him in Vienna on 11 July 1938, various correspondence, and a copy of a flight tax assessment. According to his asset declaration, Hans Strakosch-Feldringen was born on 2 February 1913, lived at Sternwartestrasse 56 in Vienna, and was married to Josefina Strakosch, née Wessely.

In the list of assets included with his 1938 Census declaration, Hans Strakosch-Feldringen included a one-fourth share, worth RM 6,000.00, of 20 hectares of real estate in Zakolany, Czechoslovakia (today, the Czech Republic), and a one-fourth share, worth RM 25,000.00, of a residential house at Sternwartestrasse 56 in Vienna. These records further indicate that Hans Strakosch-Feldringen owned as silent partner a one-eighth share of the company *Hohenauer Zuckerfabrik der Brüder Strakosch*, valued at RM 1,250,000.00, and a one-twelfth share of *Fa. A. Eggers Sohn*, worth RM 11,091.91. Hans Strakosch-Feldringen also reported owning a one-fifth share of a custody account at the Bank, and that the value of that share was RM 1,628.88, as detailed in an attachment (*Beilage*) to the declaration, which is the same letter as that attached to the declaration of Willy Strakosch-Feldringen, described above.

A letter from Dr. Schleussner, who was also appointed as administrator for the assets of Hans Strakosch-Feldringen, to the VVSt., dated 15 December 1938, indicates that the total value of Hans Strakosch-Feldringen's assets, minus past tax debt, as of 27 April 1938 was RM 1,380,600.44. According to Dr. Schleussner, as of 12 November 1938, this amount had been reduced by RM 283,412.47, and Hans Strakosch-Feldringen had paid flight tax of RM 653,055.00, leaving total assets of RM 444,132.97 as of 12 November 1938. A definitive flight tax assessment, dated 10 August 1939, is included in the file and notes that it takes the place of

the assessment of 27 October 1938. According to this definitive assessment, the flight tax was determined to be RM 565,920.00, which was based on total assets of RM 233,770.00 minus payment of RM 296,200.00 in atonement tax.

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 Owners

The Claimants have plausibly identified the Account Owners. The Claimants' grandmother's name matches the published name of Account Owner Wally Strakosch-Feldringen, and Claimant de Strakosch's father's name matches the published name of Account Owner Hans Strakosch-Feldringen. The Claimants identified the Account Owners' street address, city and country of residence, which matches information about the Account Owners contained in the 1938 Census records.

In support of their claims, the Claimants submitted documents, including their grandmother's death certificate and Claimant de Strakosch's birth certificate, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same town recorded in the 1938 Census records as the names and city of residence of the Account Owners.

The CRT notes that there are no other claims to this account.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, that they resided in Austria after the *Anschluss*, that they were forced to pay flight tax and atonement tax to the Reich, and that they fled to the United States. The CRT notes that the Account Owners were required to register their assets pursuant to the 1938 Census.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Wally Strakosch-Feldringen was the Claimants' grandmother, and that Account Owner Hans Strakosch-Feldringen was Claimant de Strakosch's father as well as the uncle of Claimant Wolfson and Claimant Schnitzler. These documents include their grandmother's last will,

indicating that Wally Strakosch-Feldringen's heirs were her three children Hans de Strakosch, Christl Patzau, and Lilly Schnitzler, and her seven grandchildren John de Strakosch, Peggy de Strakosch, Thomas Patzau, Eleonore Wolfson, Marietta Bushnell, Peter Schnitzler, and Michael Schnitzler.

The Issue of Who Received the Proceeds

The Bank's letter included with the Account Owners' asset declaration confirms that the Account Owners together held two-fifths of a custody account held in the name of the Bank for their benefit, and that the total value of the account was SF 14,288.40. The records do not show the ultimate disposition of this account.

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 were 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 Owners reported the account in the 1938 Census; that there are no Bank documents indicating when or to whom the account was closed; that there is no record of the payment of the Account Owners' share of the account to them or their heirs; that the Account Owners fled their country of origin due to Nazi persecution; and given the application of Presumptions (a), (d) 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 there it is plausible that the account proceeds were not paid to the Account Owners 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 the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated Account Owner Wally Strakosch-Feldringen was their grandmother, and that Account Owner Hans Strakosch-Feldringen was Claimant de Strakosch's father and the uncle of Claimant Wolfson and Claimant Schnitzler, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

The Bank's letter included with the Account Owners' 1938 Census records indicates that as of 27 April 1938, the total value of the securities in the custody account was SF 14,288.40. 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 178,605.00.²

² The CRT notes that, in an Order dated 16 June 2010, the Court amended Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), which establishes value presumptions for accounts with unknown or low values. Full information regarding the methodology and procedure used to determine the revised

Division of the Award

As indicated above, the Account Owners' 1938 Census records indicate that Account Owner Wally Strakosch-Feldringen and Account Owner Hans Strakosch-Feldringen each owned a one-fifth share of custody account 434. The records do not indicate who owned the remaining three-fifths of this account. According to Article 25(2) of the Rules, in cases where a joint account is claimed by relatives of only one or some of the joint Account Owners, it shall be presumed that the account was owned as a whole in equal shares by the Account Owners whose shares of the account have been claimed. Consequently, for the purposes of this award, it shall be presumed that the account at issue was owned in equal shares by Account Owner Wally Strakosch-Feldringen and Account Owner Hans Strakosch-Feldringen.

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 distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. Additionally, according to Article 23(b) of the Rules, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner.

With regard to the one-half of the account that is deemed to have belonged to Wally Strakosch-Feldringen, the CRT notes that, according to her will, her three children, Hans de Strakosch, Christl Patzau and Lilly Schnitzler, each were to inherit one-sixth of her estate, and her seven grandchildren each were to inherit one-fourteenth of her estate. Furthermore, the will of Christl Patzau indicates that her heirs were her children Marietta Boyer, Lorle Wolfson, and Thomas Patzau. The will of Marietta Boyer (Bushnell) indicates that her heirs are her children Kimberly Mathewson and Mark Bushnell. According to Claimant de Strakosch, the Hans and Maria de Strakosch Trust is the heir to the assets of Hans Strakosch.

Accordingly, with regard to this half of the account, the Hans and Maria de Strakosch Trust, as the heir of Hans Strakosch, and represented party Lilly Schnitzler, are each entitled to one-sixth of this share of the account. The one-sixth share belonging to Christl Patzau is divided among her children Claimant Wolfson (1/3, or 1/18 of this share of the account) and Thomas Patzau (1/3, or 1/18 of this share of the account), and the children of her late daughter Marietta, Kim Mathewson and Mark Bushnell (1/6 each, or 1/36 each of this share of the account). Claimant de Strakosch, represented party Peggy de Strakosch, Claimant Schnitzler, represented party Peter Schnitzler, Claimant Wolfson, and represented party Thomas Patzau also are each entitled to 1/14 of this share of the account as named heirs under the will of Account Owner Wally Strakosch-Feldringen. Represented parties Kim Mathewson and Mark Bushnell, as heirs of Marietta Bushnell, are entitled to share equally her 1/14 share of this account, or 1/28 each. Thus, as detailed in the table below, represented parties Hans and Maria de Strakosch Trust and Lilly Schnitzler are each entitled to 1/6 of this half of the account; Claimant de Strakosch, Claimant Schnitzler, and represented parties Peggy de Strakosch and Peter Schnitzler are each

Article 29 presumptive values is available at www.swissbankclaims.com. The CRT notes that any adjustment for accounts awarded at the previous presumptive value amounts or below the new presumptive value amounts, such as the one described herein, will be addressed to the Claimant separately.

entitled to 1/14 of this half of the account; Claimant Wolfson and represented party Thomas Patzau are each entitled to 16/126 (1/18 plus 1/14 each) of this half of the account; and represented parties Kimberly Mathewson and Mark Bushnell are each entitled to 16/252 (1/36 plus 1/28 each) of this half of the account.

With regard to the half of the account that is deemed to have belonged to Hans Strakosch-Feldringen, according to Claimant de Strakosch, the Hans and Maria de Strakosch Trust is the heir to these assets.

The table below summarizes the division of the award amount.

Party	Wally Strakosch-Feldringen		Hans Strakosch-Feldringen		Total
	½ of total award or 89,302.50		½ of total award or 89,302.50		
Claimant de Strakosch	1/14	6,378.75	0/0	0.00	6,378.75
Peggy de Strakosch	1/14	6,378.75	0/0	0.00	6,378.75
Hans and Maria de Strakosch Trust	1/6	14,883.75	1/1	89,302.50	104,186.25
Claimant Wolfson	16/126	11,340.00	0/0	0.00	11,340.00
Thomas Patzau	16/126	11,340.00	0/0	0.00	11,340.00
Kimberly Mathewson	16/252	5,670.00	0/0	0.00	5,670.00
Mark Bushnell	16/252	5,670.00	0/0	0.00	5,670.00
Claimant Schnitzler	1/14	6,378.75	0/0	0.00	6,378.75
Lilly Schnitzler	1/6	14,883.75	0/0	0.00	14,883.75
Peter Schnitzler	1/14	6,378.75	0/0	0.00	6,378.75
Total	252/252	89,302.50	2/2	89,302.50	178,605.00

Certification of the Award

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

Claims Resolution Tribunal
24 March 2011