

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]
represented by Erez Bernstein

and to Claimant [REDACTED 3]
represented by Erez Bernstein

in re Accounts of Nettie Königstein

Claim Numbers: 206733/MC; 501821/MC; 501835/MC¹

This Certified Denial is based on the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Illes Fillenz,² and the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Nettie Königstein. This Certified Denial is to the published accounts of Nettie Königstein (“Account Owner Nettie Königstein”) at the Zurich branch of the [REDACTED] (the “Bank”).³

All denials are published, but where a claimant has requested confidentiality, as the Claimants have in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

Background Information and Information Obtained from Public Sources

The CRT notes that it did not receive any claims specifically claiming the accounts of Nettie Königstein. However, the CRT’s attention was drawn to these accounts through information

¹ Claimant [REDACTED 2] and Claimant [REDACTED 3] each submitted an additional claim, which are registered under the Claim Numbers 501827 and 501834, respectively. In separate decisions, the accounts of Anna Connard and Marie Eisler were awarded to Claimant [REDACTED 3]. See *In re Accounts of Anna Connard* and *In re Account of Marie Eisler* (both approved on 18 December 2008). The claims of Claimant [REDACTED 2] and Claimant [REDACTED 3] to the published accounts of Leopold Lipschütz will be treated in a separate decision.

² In a separate decision, the accounts of Illes Fillenz were awarded to Claimant [REDACTED 1]. See *In re Accounts of Illes Fillenz* (approved on 1 July 2002).

³ The CRT notes that 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 (the “ICEP List”), the Account Owner is listed as *Frau Nettie Königstein Nachlass* (Estate of Mrs. Nettie Königstein). The CRT further notes that on the List of Account Owners Published in 2005 (the “2005 List”), the name Nettie Koenigstein also appears. Upon careful review, the CRT concludes that two entries refer to the same assets.

available in public sources, as detailed below. These public sources contained information about Nettie Königstein, her fate, and the fate of her estate, including the names of persons included in her will. Based upon this information, the CRT identified claimants who, in turn, identified the names of one or more of Nettie Königstein's heirs in their claim forms. This decision sets forth the information obtained about Nettie Königstein and addresses the entitlement to the accounts at issue of those claimants who identified her heirs in their claim forms.

According to an article from the *New York Times* entitled "Heirs and Fortune Vanish in Austria," originally published on 25 June 1940, the fate of Mrs. Nettie Königstein, who was a former American citizen who lived in Vienna, Austria, was outlined to officials of the State Tax Commission in connection with the appraisal of her estate.⁴ According to this article, Nettie Königstein committed suicide on 14 March 1938, less than 48 hours after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). The article stated that Nettie Königstein made specific bequests in her will totaling over 150,000.00 United States Dollars ("US \$"), and that she had further provided for the distribution of the balance remaining after payment of those legacies.

According to this article, the appraiser's report disclosed that Mrs. Königstein's first choice as executor of her estate was unable to serve, since he was one of the early prisoners in the Nazi concentration camps in Austria, and that her second choice was likewise unable to serve, because he was Jewish. According to the report, as a result a German government official was representing the estate.

According to the article, American assets of the estate were valued at US \$30,854.00 by Meyer Levy, an attorney who acted as her administrator in the United States and who was retained by Mrs. Königstein for the liquidation of her first husband's estate a short time before the *Anschluss*. The article states that Mr. Levy was holding the American assets and attempting to locate others in Austria and Switzerland to enable him to carry out, as far as possible, the directions of her will. The article states that payment of an annuity to one of the American legatees had been ordered by the Surrogate's Court.

According to the article, the largest legatee of the estate was [REDACTED] of London, England, who was to receive US \$50,000.00, and that there were also bequests to the Jewish community in Vienna and to a score of friends and relatives. The article notes that many of the legatees who lived in Vienna at the time of Mrs. Königstein's death had disappeared and could not be found, as reported by Mr. Levy.

Information Provided by the Holocaust Claims Processing Office

Nettie Königstein

In response to a request from the Office of the Special Master for information regarding Nettie

⁴ "Heirs and Fortune Vanish in Austria. Estate Case Reveals Tragedy of Mrs. Nettie K. Konigstein, Former U.S. Citizen," *New York Times* (1857 – Current file); Jun 25, 1940; ProQuest Historical Newspapers The New York Times (1851 – 2005), p. 26.

Königstein, the Holocaust Claims Processing Office (the “HCPO”) submitted a memorandum and various documents indicating that Nettie Königstein, formerly Kunitzer, née Rosenstrauss, was born on 29 January 1874 in Rochester, New York, to [REDACTED] and [REDACTED], née [REDACTED]. According to the research conducted by the HCPO, in 1918 Nettie Rosenstrauss married Dr. [REDACTED], who was born on 18 February 1865 in Szegedin, Austria-Hungary (now Hungary), and the couple lived at Rathausstrasse 21 in Vienna. The HCPO’s research indicates that [REDACTED] died in Vienna on 18 December 1924. On 20 June 1929 in Vienna, Nettie Kunitzer married Dr. [REDACTED], who was born on 25 August 1865 in Vienna to [REDACTED] and [REDACTED], née [REDACTED], and the couple continued to live at Rathausstrasse 21. According to the HCPO’s research, Dr. [REDACTED] died in Vienna on 20 June 1937 and Nettie Königstein died on 14 March 1938, just after the *Anschluss*.

The HCPO provided various documents to supplement its research, including information regarding Nettie Königstein from the Vienna City archive, which indicates that [REDACTED], who was born on 18 February 1865 in Szegedin, Hungary, lived at Rathausstrasse 21 in Vienna with his wife, Nettie Kunitzer, née Rosenstrauss, from 2 March 1924 until 18 December 1924, when he died. These records also indicate that Nettie Kunitzer married Dr. [REDACTED], who was born on 25 August 1865 in Vienna, on 20 June 1929, and that they lived at Rathausstrasse 21 from 11 April 1930 until 20 June 1937, when [REDACTED] died, after which Nettie Königstein continued to live at Rathausstrasse 21 until her death on 14 March 1938 in the Sanatorium Auersperg in Vienna.

The HCPO also provided marriage records from the Jewish Community of Vienna, (*israelitische Kultusgemeinde Wien*) indicating that Dr. [REDACTED], who was born on 25 August 1865 in Vienna, and Nettie Kunitzer, née Rosenstrauss, who was born on 29 January 1874 in Rochester, New York, and was widowed since 1924, were married on 20 June 1929 in Vienna. It also provided excerpts from the book *Was einmal war: Handbuch der enteigneten Kunstsammlungen Weins* by Sophie Lillie (“Lillie”),⁵ indicating that Natalie (Nettie) Rosenstrauss, who was born on 29 January 1872 in Rochester, New York, was married first to Dr. [REDACTED], who died in 1924, and then to Dr. [REDACTED], a gynaecologist, who died in June 1937. According to Lillie, Nettie Königstein committed suicide on 14 March 1938 by means of an overdose of veronal, and she named [REDACTED] and [REDACTED] beneficiaries under her will, bequeathing them jointly a rental property at Landstrasse Hauptstrasse 75-77 in Vienna, and bequeathing [REDACTED] a portrait of her late husband, [REDACTED].

Among the documents submitted by the HCPO is a report to the court (“*Testamentsausweisung*”) dated 6 February 1943 dealing with Nettie Königstein’s estate, submitted by the appointed executors of the estate, giving a status update of the 41 bequests detailed in Nettie Königstein’s will of 6 October 1937 and the codicil to the will dated 9 October 1937. This document details the bequests, starting with a specific bequest to [REDACTED] and [REDACTED] of a rental house at Landstrasse Hauptstrasse 75 in Vienna and a portrait of Dr. [REDACTED]. This document indicates that this bequest had been fulfilled. Other specific bequests included cash

⁵ Sophie Lillie, *Was einmal war: Handbuch der enteigneten Kunstsammlungen Wiens* [What once was: Handbook of Vienna’s stolen art collections], Czernin Verlag, 2003 (hereinafter “Lillie”).

payments to various individuals ranging in amounts from US \$50,000.00 to US \$100.00. The report includes the name of [REDACTED], née [REDACTED], of Budapest, Hungary, and indicates that she was to receive a specific bequest of US \$10,000.00. The report also includes the names of two Jewish charities in Vienna, the *Stiftung Waisenhaus für israelitische Mädchen Charlotte Merores Itzeles* (a Jewish orphanage for girls) and the *Israelitisches Blindeninstitute Hohe Warte* (a Jewish institute for the blind), and notes that neither of these institutions was in existence as of 28 June 1941. The report also indicates that a court in New York handled the Nettie Königstein's estate, and that Nettie Königstein's funds held in America were used to create an annuity to one of the American legatees.

The HCPO also submitted information about the [REDACTED] family, which indicates that [REDACTED]'s name was originally [REDACTED], and that he was born on 7 October 1863, in Arad, Romania, to [REDACTED] and [REDACTED], née [REDACTED]. On 11 April 1897, [REDACTED] married [REDACTED], who was born on 10 April 1877 in Vienna, Austria, to [REDACTED] and [REDACTED], née [REDACTED]. In 1910, [REDACTED] and [REDACTED] changed their surname to [REDACTED]. According to the information provided by the HCPO, [REDACTED] was deported to Theresienstadt in May 1943, where he perished, and [REDACTED] survived the War and passed away in Vienna on 6 March 1955.

The HCPO provided various documents, including a chain of wills beginning with the will of [REDACTED], which indicate that [REDACTED] left her residual estate to a person named [REDACTED], who in turn named her husband Dr. jur. [REDACTED] as her sole heir under her will, who subsequently named his son, Dr. [REDACTED] as his only heir under his will. The CRT notes that none of these persons filed a claim to these accounts.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying [REDACTED] as her mother, [REDACTED], née [REDACTED], who was born on 30 September 1897 in Budapest, Hungary, and was married to Illes Fillenz on 4 October 1923 in Budapest. Claimant [REDACTED 1] stated that her parents, who were Jewish, lived in Budapest at Szent István KRT 11 from 1927 to 1944. Claimant [REDACTED 1] explained that, following the German occupation of Hungary, her father was taken first to a work camp and then deported to a concentration camp, where he perished in 1945. Claimant [REDACTED 1] stated that her mother died in 1985 in Lenzburg, Switzerland, and that she is her mother's only child.

In support of her claim, Claimant [REDACTED 1] submitted documents, including 1) her parents' marriage certificate, indicating that [REDACTED], née [REDACTED], was born on 30 September 1897 in Budapest, Hungary, and was married to Illes Fillenz on 4 October 1923 in Budapest, and 2) her marriage certificate, indicating that [REDACTED 1] was the daughter of [REDACTED], née [REDACTED].

Claimant [REDACTED 1] indicated that she was born on 7 August 1924 in Budapest, Hungary.

Claimant [REDACTED 2] and Claimant [REDACTED 3]

Claimant [REDACTED 2] and Claimant [REDACTED 3], who are related, submitted similar Claim Forms in which Claimant [REDACTED 2] identified [REDACTED] as his maternal grandfather's maternal uncle and [REDACTED], as [REDACTED]'s wife. Claimant [REDACTED 2] explained that [REDACTED]'s sister, [REDACTED], née [REDACTED], was the mother of his (Claimant [REDACTED 2]'s) maternal grandfather, [REDACTED], and thus was his great-grandmother.

Claimant [REDACTED 3] identified [REDACTED] as her great-aunt and [REDACTED] as [REDACTED]'s husband. Claimant [REDACTED 3] explained that [REDACTED]'s sister, [REDACTED], née [REDACTED], was her paternal grandmother.

Claimant [REDACTED 2] and Claimant [REDACTED 3] explained that [REDACTED] was born on 10 April 1877 in Vienna to [REDACTED] and [REDACTED], and that [REDACTED] was born on 7 October 1863 in Arad, Romania, to [REDACTED] and [REDACTED], née [REDACTED]. They stated that their relatives, who were Jewish, were married and resided at Biberstrasse 15 in Vienna, and that the couple had no children. According to the information provided by these Claimants, [REDACTED] perished in the Theresienstadt concentration camp on 5 December 1943, and his wife, who survived deportation to the Theresienstadt concentration camp, died in Vienna on 6 March 1955.

In support of his claim, Claimant [REDACTED 2] submitted documents, including:

1. his birth certificate, which indicates that [REDACTED 2] is the son of [REDACTED], née [REDACTED];
2. his mother's birth certificate, which indicates that [REDACTED] was the daughter of [REDACTED];
3. his grandfather's marriage certificate, which indicates that [REDACTED] was the son of [REDACTED], née [REDACTED];
4. his great-grandmother's marriage certificate, which indicates that [REDACTED] was the daughter of [REDACTED] and [REDACTED], née [REDACTED]; and
5. the marriage certificate of [REDACTED] ([REDACTED]), which indicates that [REDACTED], who was born on 7 October 1863 to [REDACTED] and [REDACTED], née [REDACTED], married [REDACTED] on 11 April 1897.

Claimant [REDACTED 3] submitted documents, including:

1. her paternal grandmother's marriage certificate, which indicates that [REDACTED], who was born in 1882 to [REDACTED] and [REDACTED], married [REDACTED], the son of [REDACTED] and [REDACTED], on 2 September 1906 in Vienna, Austria;
2. her father's death certificate, which indicates that [REDACTED], who was born on 27 May 1907 in Austria, died on 15 April 1990 in the United Kingdom;
3. her father's probate certificate, which indicates that [REDACTED]'s executrix and

- heir was [REDACTED]; and
4. [REDACTED]'s birth certificate, which indicates that [REDACTED] was born on 10 April 1877 to [REDACTED] and [REDACTED].

Claimant [REDACTED 2] indicated that he was born on 20 January 1959 in Caracas, Venezuela, and Claimant [REDACTED 3] indicated that she was born on 3 November 1967 in the United Kingdom.

Information Available from the Austrian State Archive

Nettie Königstein

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"). The CRT notes that, as detailed above, Nettie Königstein took her own life on 14 March 1938, and thus was not alive at the time of the decree requiring the registration of assets. However, in the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Nettie Königstein, numbered 61409. These documents include correspondence from Dr. Gustav Bauer dating from March and April 1939 to the office in charge of registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt.") in Vienna and others.

According to a letter dated 8 March 1939 from Dr. Bauer to the VVSt., Dr. Bauer had been appointed by the Vienna association of lawyers ("*Rechtsanwaltskammer*") as the representative of the estate of Nettie Königstein, who died on 14 March 1938 in Vienna. In this letter, Dr. Bauer listed eight persons who were included in her will, and noted that their legacies had become due on 14 March 1939.⁶ Dr. Bauer wrote that, after the deduction of fees, he was to pay out these legacies, but that he did not know whether these persons had reported these legacies for the calculation of their "Jewish contributions," *i.e.*, discriminatory taxes targeting Jewish persons. Dr. Bauer wrote that, in any case, should an "obligation to contribute" ("*Kontributionspflicht*") exist, he wished to withhold one-fifth of the amounts and pay them, on behalf of the legatees, to the relevant financial authorities. In this letter, Dr. Bauer requested to be informed whether these persons owed "contributions" and whether they had declared their bequests from the estate of Nettie Königstein for the purposes of calculating the amounts they owed. He also asked whether any measures had been taken against these legatees that would preclude his paying them.

The files pertaining to Nettie Königstein also contain a letter dated 11 March 1939 from Dr.

⁶ These persons, all of whom were listed with their Vienna addresses were: [REDACTED] of Pazmanitengasse 38; Dr. [REDACTED] of Mariahilferstrasse 53 (who had meanwhile left to an unknown destination); Mrs. [REDACTED] of Rudolf v. Altplatz 5 (who had presumably immigrated); Professor Dr. [REDACTED] of Georg Cochplatz 3; Dr. [REDACTED], formerly of Schikandergasse 11 but who had emigrated to Australia at the end of 1938; Dr. [REDACTED] of Loquaipplatz 9; [REDACTED] of Loquaipplatz 9; and [REDACTED] of Frankgasse 4. [REDACTED] and [REDACTED]'s legacies were for 1,000.00 United States Dollars ("US \$") each; all the others were for US \$2,000.00 each.

Bauer to [REDACTED] and [REDACTED], who resided at Biberstrasse 15. In this letter, Dr. Bauer stated that he had been appointed to represent the estate of Nettie Königstein and confirmed that, per Point II of her will dated 6 October 1937, [REDACTED] and [REDACTED] had been bequeathed, in equal portions, a house located at Landstrasse-Hauptstrasse 75-77 in Vienna. Dr. Bauer wrote that this value of this house had been estimated by officials to be RM 212,000.00, per the date of Nettie Königstein's death. Dr. Bauer stated that this value would be used to calculate the various fees due, including the 20% inheritance fee for each of them (“[d]ie 20%ige Erbgebühr für jeden von Ihnen beiden berechnet, zusammen”), which together amounted to 63,600.00 Austrian Schillings (“AS”),⁷ plus a 60% additional fee (“Zuschlag”) amounting to AS 38,160.00; a 7% estate fee (“Nachlassgebühr”) amounting to AS 22,260.00; a real estate fee (“Immobiliengebühr”) of 2% amounting to AS 6,360.00; and an additional Vienna fee of 50% of the real estate fee (“Wiener Zuschlag zu der Immobiliengebühr”) amounting to AS 3,180.00.

The file also contains a letter dated 16 March 1939 from Dr. Bauer to the VVSt., in which Dr. Bauer informed the VVSt. about the status of Nettie Königstein's estate proceedings. He wrote that Mrs. Königstein named several relatives and other individuals (“eine Reihe von Verwandten und auch fremden Personen”) as legatees and that she named [REDACTED] and [REDACTED] as her heirs, with the specific instructions that they were to receive the house at Landstrasse-Hauptstrasse 75 but otherwise nothing else from the estate, and that, after all other bequests were paid, they were obligated to pay the remainder of her estate to two charitable institutions. He wrote that these two heirs ([REDACTED] and [REDACTED]) thus had inherited the house but otherwise are only the executors of the estate.⁸ Dr. Bauer wrote that the value of the entire estate was estimated at RM 1,200,000.00, and that the largest items in the estate were two houses and their contents, jewelry, securities, and gold, the latter of which, Dr. Bauer wrote, were deposited at the *Oesterreichische Creditanstalt* and the *Postsparkassenamt* in Vienna and at the Bank in Zurich. He wrote that the assets in Zurich had a value of SF 542,007.00, and that all the other assets were held within the Reich. Dr. Bauer wrote that the Foreign Exchange Office (“Devisenstelle”) in Vienna had issued a freeze (“Sicherungssperre”) on the domestically-held securities and the houses, and had instructed the heirs to transfer the securities held at the Bank in Zurich to a bank in the Reich, and that, pursuant to these instructions, the heirs had requested the Bank to make the transfers. Dr. Bauer wrote that these transfers were not completed, however, because several legatees had filed a suit at the district court in Zurich (“Bezirksgericht Zürich”), which had caused these assets to be frozen. Dr. Bauer wrote that the Foreign Exchange Office in Vienna was aware of these developments. He explained that, with the permission of the Foreign Exchange Office, he had opened negotiations with the foreign legatees who had initiated the suit regarding a settlement and the possible release of a portion of the assets, but they had, up to this point, not reached any result.

⁷ The CRT notes that, after the *Anschluss*, Austrian Schillings were converted to Reichsmark at the rate of 1.5 Austrian Schillings per Reichsmark. Thus, the RM 212,000.00 estimated value of the house was equal to AS 318,000.00.

⁸ The German original reads: “In dem Testament bedachte Sie eine Reihe von Verwandten und auch fremden Personen mit Legaten und setzte die Ehegatten [REDACTED] and [REDACTED], wohnhaft Wien, I., Biberstrasse 15 zu Erben mit der Massgabe ein, dass die Erben das Haus, Wien, III., Landstrasse-Hauptstrasse 75, als Vorausvermächtnisse, von der Erbschaft selbst aber nichts erhalten sollen, sondern verpflichtet wurden, das, was nach der Auszahlung aller Vermächtnisse übrig bleibt, zwei Wohltätigkeitsinstituten auszufolgen. Die Erben sind also bezüglich des Hauses Vermächtnisnehmer und an sonsten nur die Verwalter des Nachlasses und Verteiler der Legate.” [Emphasis added.]

In his 16 March 1939 letter to the VVSt. Dr. Bauer also noted, based upon the VVSt.'s response to his earlier letter of 8 March 1939, that [REDACTED], [REDACTED], and [REDACTED] did not report their legacies in their asset declarations, but that the other individuals he listed in his earlier letter had reported them. He then listed three other legatees, who also resided within the Reich, but who, in his opinion, were not "required to contribute." He identified these three legatees as Dr. [REDACTED], who was not Jewish ("*nicht Jude*"); the poor of Vienna ("*die Armen der Stadt Wien*"); and the estate of Dr. [REDACTED], who died on 5 June 1938, and whose heir, Dr. [REDACTED], had emigrated to Switzerland in July 1938. Dr. Bauer concluded his letter by providing updates regarding payments made to Dr. [REDACTED] and to the estate of Dr. [REDACTED].

[REDACTED] and [REDACTED]

The Austrian State Archive also contains records pertaining to the assets of [REDACTED] and [REDACTED], numbered 14658 and 13992, respectively. In addition to describing the assets of the [REDACTED], the records for [REDACTED] and [REDACTED] contain information pertaining to the estate of Nettie Königstein. Both files contain an appendix ("*Anlage*") that refer to the legacy [REDACTED] and [REDACTED] received from Nettie Königstein. The document quotes Point II of Nettie Königstein's will of 6 October 1937, in which Mrs. Königstein bequeathed them, in equal shares, her house at Landstr- - Hauptstrasse 75/77, and, to [REDACTED] alone a portrait of her late husband, Dr. [REDACTED]. The quoted section of her will also asks [REDACTED] and [REDACTED] to ensure that, after her various legacies have been paid, the remainder of her estate be paid to two Jewish charitable institutions named in Point V, paragraph 25 of her will, which the documents cites in full and which identifies these institutions as the *Charlotte Merores Itzeles-Waisenhaus für Israelitischen Mädchen* (a Jewish orphanage for girls) and the *Israelitischen Blindeninstitute* (a Jewish institute for the blind). The document also quotes Point VIII of her will in full, which mandates that, should any of the persons named in the will or in a later codicil contest the conditions set forth in these documents, those persons shall forfeit all legacies granted to them by such documents.⁹

The [REDACTED]s further explained in this document that, pursuant to Mrs. Königstein's will in general and, specifically, these provisions, the house was the only object of value that they were to receive from Mrs. Königstein. According to this document, the value of the house as of April 1936 was AS 360,000.00. The document noted that this value would be reduced by the inheritance fees incurred, which had, at the time the document was written, yet to be assessed, but that, since the total value of the estate exceeded one million Schillings, would be at least 35 percent, leaving additional assets of RM 78,000.00 (per person) as a result of this inheritance.

Information from the Records of the German Archive

⁹ The German original of Point VIII reads: "*VIII. Falls wider Erwarten eine der im Testamente bedachten Personen dieses Testament oder ein späteres Kodizill oder irgend eine der in dem Testamente oder in einem Kodizill enthaltenen Bestimmungen anfechten sollte, so geht die betreffende Person aller letztwilligen Zuwendungen verlustig.*"

The *Brandenburgisches Landeshauptarchiv* contains records pertaining to the estate of Nettie Königstein, numbered 3607, which consist of internal memoranda of the *Reichsbank* and a list of securities held at the Bank in Zurich as of 5 April 1939. These records indicate that, although offered for sale to the *Reichsbank* in April 1939, a large part of the securities were sold to pay the bequests, and that another part of securities was transferred to an Austrian bank. The records further indicate that certain heirs who lived outside the Reich had portions of Nettie Königstein's Swiss assets corresponding to the amount of their legacies frozen.

Information Available in the Bank Records

The Bank's records consist of a customer card, correspondence information for the accounts, and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) Nettie Königstein, who resided at Rathausstrasse 21 in Vienna, Austria, and the Power of Attorney Holders as of 2 October 1931 were Edgar Otto Frankel and Dr. Johann Schlesinger. There is evidence in the Bank's records that the Bank was informed of the Account Owner's death on 22 April 1938, and as of 1 June 1938, correspondence was to be sent to Dr. [REDACTED], a lawyer, at Schottengasse 10 in Vienna; however, as of 2 June 1938, the Bank's legal department was to handle all correspondence. The Bank's records further indicate that as of 13 January 1939, correspondence regarding the Account Owner's estate was, following inspection by the Bank's legal department, to be sent to the lawyer Dr. Gustav Bauer at Dr. Karl Luegerring 10 in Vienna.

The Bank's records indicate that the Account Owner held one custody account, numbered 30114, one demand deposit account denominated in US dollars, one demand deposit account denominated in Swiss Francs, and one savings/passbook account. According to the Bank's records, the custody account was opened in August 1930 and at some point was frozen ("*Depot gesperrt*"). The records show that the custody account was closed on 1 June 1939. The Bank's records indicate that the remaining accounts were closed no later than 1 June 1939, but the exact date of closure is not recorded. The Bank's records do not indicate the values of the accounts.

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 Owner

The CRT notes that neither Claimant [REDACTED 1] nor Claimant [REDACTED 2] nor Claimant [REDACTED 3] has plausibly identified the Account Owner as his/her relative. However, each Claimant has identified as his/her relative a person named in the Account

Owner's will as the recipient of a specific bequest.

Thus, Claimant [REDACTED 1] has plausibly identified [REDACTED] as her mother. Claimant [REDACTED 1]'s mother's name and country of residence match the unpublished name and country of residence of [REDACTED] as contained in records pertaining to the Account Owner's estate. In support of her claim, Claimant [REDACTED 1] submitted documents, including her parents' marriage certificate, providing independent verification that Claimant [REDACTED 1]'s mother had the same name and resided in the same country as the name and country of residence of the [REDACTED] referenced in the documents referring to the Account Owner's estate.

Similarly, Claimant [REDACTED 2] and Claimant [REDACTED 3] have plausibly identified [REDACTED] and [REDACTED] as their relatives, and stated that their relatives were named beneficiaries under the Account Owner's will. Their relatives' names, marital status, city and country of residence match unpublished information regarding these persons as contained in records pertaining to the Account Owner's estate. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 7 October 1863 and place of birth was Arad, Romania, which matches the information about [REDACTED] provided by Claimant [REDACTED 2] and Claimant [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that this database also includes a person named Nettie Koenigstein, who was born on 29 January 1872 in Rochester, New York, and who died on 14 March 1938 in Vienna. This information matches the information submitted by the Claimants and the HCPO regarding Nettie Königstein.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Account Owner was Jewish, and that she committed suicide on 14 March 1938, two days after the *Anschluss*.

As noted above, a person named Nettie Königstein was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner and Entitlement to the Accounts

The CRT notes that none of the Claimants has plausibly demonstrated that he/she is related to the Account Owner. However, Claimant [REDACTED 1] has demonstrated that she is related to [REDACTED], and Claimant [REDACTED 2] and Claimant [REDACTED 3] have demonstrated that they are related to [REDACTED] and [REDACTED]. As detailed above, [REDACTED] and [REDACTED] and [REDACTED] were identified as recipients of specific bequests in Nettie Königstein's will.

The CRT notes that Nettie Königstein specifically identified two Jewish charitable organizations

– the *Charlotte Merores Itzeles-Waisenhaus für Israelitischen Mädchen* (a Jewish orphanage for girls) and the *Israelitischen Blindeninstitute* (a Jewish institute for the blind) – that served needy members of her Jewish community as the beneficiaries of her residual estate, and that she drafted her will carefully in order to ensure that these two organizations would receive the residue of her estate after the specific bequests were fulfilled. Given that the Claimants are heirs of persons who were identified as receiving specific bequests, the CRT determines that they are not entitled to the assets of the claimed accounts, as these assets are part of Nettie Königstein’s residual estate.

The CRT notes that according to the 6 February 1943 court document, neither of the institutions specified in Nettie Königstein’s will was in existence as of 28 June 1941, and so they certainly did not receive the legacy bequeathed to them. However, to the extent that the assets in the claimed accounts are not being awarded to members of the Deposited Assets Class, they remain available to fund payments to other classes of claimants created by the Settlement Agreement in the Holocaust Victim Assets Litigation, among them the Looted Assets Class. As detailed in the Plan of Allocation and Distribution of Settlement Proceeds (the “Distribution Plan”), which was proposed by Special Master Judah Gribetz and approved by the Court on 22 November 2000, members of the Looted Assets Class are compensated in part through *cy pres* payments to benefit the neediest survivors of Nazi persecution.¹⁰ The Distribution Plan noted:

For the neediest members of the Looted Assets Class, a *cy pres* allocation can have a significant concrete impact upon the lives of many thousands of elderly survivors. One of the bitterest of ironies is that those who were robbed of the least, in a material sense, ultimately may have lost the most. Elie Wiesel has observed that it was “not only the big fortunes, palaces and art treasures” that were destroyed by the Nazis. “Let us remember also the less wealthy families: the small merchants, the cobblers, the peddlers, the school teachers, the water carriers, the beggars. The enemy robbed them of their poverty.” [Internal citation omitted.] The enemy also robbed them of their future. Not only did they lose all that they had, but many have since lived for decades in destitution, unable to obtain even modest financial recompense.¹¹

To the extent that assets belonging to Nettie Königstein are not distributed to Deposited Assets Class members because no proper heirs exist under the terms of the Königstein will, and therefore such assets become “residual funds” to be distributed via Looted Assets Class programs to the neediest Holocaust survivors, the CRT notes that such result would appear to comport with the original intent of the testator, Nettie Königstein, who likewise called for her residual estate to benefit needy persons (*i.e.*, Jewish orphans and blind persons in Vienna).

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

¹⁰ See *In re Holocaust Victim Asset Litig.*, 2000 WL 33241660 (E.D.N.Y. November 22, 2000), *aff’d* 413 F.3d 183 (2d Cir. 2001).

¹¹ *Id.*, at pp. 23 – 24.

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
17 September 2010