

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Joseph Hynes  
represented by Dr. Walter Friedrich

## **in re Account of Clara Finkel**

Claim Number: 501426/LV

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Joseph Hynes (the “Claimant”) to the published account of Clara Finkel (the “Account Owner”), over which Marie Heinsheimer (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (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 a Claim Form identifying the Account Owner as his maternal grandmother, Clara Finkel, née Rosenthal, who was born on 28 December 1863 in Lemberg, Austria-Hungary (now Lviv, Ukraine), and was married to [REDACTED] on 24 February 1891 in Vienna, Austria. The Claimant stated that his grandparents, who were Jewish, had one child, Marie Heinsheimer, née Finkel, the Claimant’s mother, who was born on 5 September 1892 in Vienna. The Claimant stated that his grandmother resided at Laudongasse 56 in Vienna. In a telephone conversation with the CRT on 9 February 2005, the Claimant’s representative explained that the Claimant’s parents were divorced, and that the Claimant’s father had resided in London, the United Kingdom since 1928. The Claimant’s representative also stated that the Claimant went to London to live with his father in 1937. The Claimant’s representative further stated that the Claimant’s grandmother died of natural causes in Vienna in 1940, and that in 1941 the Claimant’s mother was deported to the [REDACTED] ghetto, where she perished. The Claimant submitted his own birth certificate, identifying [REDACTED] and Maria Heinsheimer, née Finkel, as his parents, and indicating that he was born in Vienna; a *Todfallsaufnahme* (official report of an individual’s death) relating to Clara Finkel, documenting that she resided in Vienna and identifying her daughter as Maria Heinsheimer; the census form completed by his grandmother in 1938, indicating that Clara Finkel resided at Laudongasse 56; the form declaring assets owned by Jews completed by his mother in 1938, indicating that Marie Heinsheimer resided in Vienna, and a notice of name change printed in the London Gazette, dated 2 December

1952, indicating that the Claimant had changed his last name from [REDACTED] to [REDACTED].

The Claimant stated that he was born on 24 May 1927 in Vienna.

### **Information Available in the Bank's Records**

The Bank's records consist of an account card and a power of Attorney form, dated 29 June 1935. According to these records, the Account Owner was *Frau* (Mrs.) Clara Finkel, who resided at Laudongasse 56, Vienna 8, and the Power of Attorney Holder was *Frau* (Mrs.) Marie Heinsheimer, the Account Owner's daughter, who resided in Vienna 19 at Vegagasse 17. The Bank's records indicate that the Account Owner held a custody account, numbered 4071. The Bank's records indicate that the account was opened on or before 29 June 1935. The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account.

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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

### **Information Available from the Austrian State Archive**

#### Clara Finkel

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 Clara Finkel, née Rosenthal, numbered 22419, dated 6 July 1938. These documents indicate that Clara Finkel was born on 28 December 1863, that she was a widow and a retiree, and that she resided at Laudongasse 56 in Vienna VIII and also at Pension Edelweiss located at Langegasse 61. The records indicate that Clara Finkel owned foreign securities at the *Oesterreichische Creditanstalt*, and that she was ordered to sell them on 8 August 1938. The records further indicate that Clara Finkel was assessed flight tax (*Reichsfluchtsteuer*) of 16,100.00 Reichsmark ("RM") on 25 September 1939 and atonement tax (*Judenvermögensabgabe*) of RM 10,000.00. These records make no mention of assets held in a Swiss bank account.

#### Marie Heinsheimer

In the records of the Austrian State Archive (Archive of the Republic, Finance), there are

documents concerning the assets of Marie Heinsheimer, née Finkel, numbered 44956. These records indicate that Marie Heinsheimer was born on 5 September 1892, and that she was a divorcee residing in Vienna VIII at Richtergasse 1 and at Langegasse 8. The records further show that Marie Heinsheimer owned no assets other than personal valuables, which were worth a total of RM 2,870.00. The records also indicate that Marie Heinsheimer's former husband, [REDACTED], although obliged to support her until she remarried, and to support his daughter, who was a minor at the time, until she was able to make a living of her own, had made no payments since February 1938 because of his own difficult financial circumstances. These records make no mention of assets held in a Swiss bank. The first page of the asset declaration is stamped "to Poland" ("*nach Polen*").

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandmother's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant's mother's name matches the published name of the Power of Attorney Holder. The Claimant identified his grandmother's street address, and the relationship between the Account Owner and the Power of Attorney Holder, which match unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his own birth certificate, identifying [REDACTED] and Maria Heinsheimer, née Finkel, as his parents and showing that he was born in Vienna; a *Todfallsaufnahme* (official report of an individual's death) relating to Clara Finkel, stating that she resided in Vienna and identifying her daughter as Maria Heinsheimer; and the 1938 Census records submitted by Clara Finkel and Marie Heinsheimer, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided at the same address recorded in the Bank's records as the name and address of the Account Owner, and that the person who is claimed to be the Power of Attorney Holder had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Marie Heinsheimer, and indicates that her date of birth was 5 September 1892, which matches the information about the Power of Attorney Holder provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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

### 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 resided in

Nazi-controlled Austria. The CRT notes that the Account Owner was required to complete a 1938 Census declaration detailing her assets. The Claimant also stated that the Account Owner's daughter, the Power of Attorney Holder, was deported to the Lodz ghetto, where she perished and the CRT notes that her 1938 Census form bore the stamp "to Poland".

As indicated above, a person named Marie Heinsheimer was included in the CRT's database of victims.

#### 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 grandmother. These documents include his own birth certificate, identifying [REDACTED] and Maria Heinsheimer, née Finkel, as his parents and showing that he was born in Vienna; a *Todfallsaufnahme* (statement concerning the deceased) relating to Clara Finkel, indicating that she resided in Vienna and identifying her daughter as Maria Heinsheimer; and a notice of name change printed in the London Gazette, dated 2 December 1952, indicating that the Claimant had changed his last name from Heinsheimer to Hynes.

#### The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi-controlled Austria before she passed away in 1940; that the Power of Attorney Holder was deported to the Lodz ghetto in 1941, where she perished; that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her account 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder 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 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 his grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claim 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).

### **Certification of the Award**

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

Claims Resolution Tribunal  
31 March 2005