

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ralph Engel, also acting on behalf of Gabriele Jackson, Vivian Stein, Jonathan Goldberg, Joyce Shapiro, and Jeffrey Greenberg

in re Account of Käte Friedländer

Claim Number: 213599/MBC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Ralph Engel (the “Claimant”) to the account of Käte Friedländer (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”). The account is from the Total Accounts Database (the “TAD”) at 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 Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire identifying the Account Owner as his maternal grandmother, Käte Friedländer, née Krämer, who was born to Adolf Abraham Krämer and Hedwig Krämer on 17 July 1880 in Berlin, Germany. The Claimant stated that his grandmother was married to George Friedländer on 25 December 1901 in Breslau, Germany and that the couple had three children: Ruth Engel, née Friedländer (the Claimant’s mother), who was born in 1908 in Breslau and died in 1977 in New York, New York; Vera Goldberg, née Friedländer, who was born in 1902 in Breslau and died in 1968 in New York; and Wolfgang Friedländer, who was born in 1917 in Breslau and died in 1989 in New York. The Claimant also stated that his grandmother was a homemaker and that his grandfather was a director for *Ostwerke AG* and for *C.A.F Kahlbaum AG*. The Claimant explained that his grandfather died in Berlin on 9 December 1923 and that his grandmother, who was Jewish, resided in Berlin-Halensee at Eisenbahnstrasse 64 until March 1939, when she fled Germany to New York, where she died on 20 March 1964.

In support of his claim, the Claimant submitted an attachment to his grandmother’s 1930 property tax declaration listing two accounts that she owned in Switzerland at the Bank; his grandmother’s insurance policy for her jewelry, dated May 1937; her income tax forms for the years 1935 to 1938, which indicate that her average yearly income was 55,000.00 Reichsmarks; numerous documents concerning the flight tax (*Reichsfluchtsteuer*) levied upon his grandmother when she fled Nazi Germany, which indicate that she paid the sum of 307,400.00 Reichsmarks

from her account with the *Prussian National Bank* directly to a district financial office in Germany; documents sent to his grandmother from *Hardy & Company G.m.b.H.*, bankers in Berlin, notifying her that the *Deutsche Golddiskontbank* bought 150,000.00 Reichsmarks from her blocked account at a discount of 93.5%, leaving Käte Friedländer with 9,750.00 Reichsmarks; and a listing of his grandmother's financial assets in Germany, which indicates that she was forced to pay a fee for immigrants of 136,000.00 Reichsmarks as well as the 20% Jewish Assets Tax (*Judenvermögensabgabe*), a second flight tax of 305,725.00 Reichsmarks.

The Claimant also submitted a letter sent to his grandmother by the Chief Financial Officer of Karlsruhe, Germany, dated 22 November 1938, which informed her that funds from frozen accounts of Jewish persons interested in immigrating would be made available to German businesses as loans.¹ The letter also informed her that a loan of 300,000.00 Reichsmarks from her account would be made to *Keramet G.m.b.H.*, a ceramics and metal company in Rastatt, Germany. According to the contract regarding this loan, submitted by the Claimant, *Keramet* was obligated to repay only 35% of the amount loaned. A separate document indicates that Käte Friedländer was also required to pay an additional 18,000.00 Reichsmarks in commission on the loan. The Claimant also submitted a letter, dated 18 August 1948, from Käte Friedländer to *Keramet*, contesting the conversion of her loan amount from Reichsmarks to Deutschmarks at a rate of 10% and demanding repayment of the full loan amount. The Claimant stated that *Keramet* never repaid any money to his grandmother. Finally, the Claimant submitted a notification from the Restitution Office in Berlin to his grandmother, stating that her application for restitution of the loan to *Keramet* had been denied because "failure to repay an approved credit did not constitute a confiscation measure,"² and suggested that she pursue her claim through other legal means.

The Claimant stated that he was born on 13 May 1944 in New York. The Claimant is representing his sisters, Gabriele Jackson, who was born on 17 November 1936 in Berlin, and Vivian Stein, who was born on 5 January 1949 in New York; his cousin, Jonathan Goldberg, who is the son of Vera Goldberg, née Friedländer, and who was born on 17 September 1933 in Berlin; and his cousins, Joyce Shapiro and Jeffrey Greenberg, who are the grandchildren of Vera Goldberg, née Friedländer, and the children of Jonathan Goldberg's late sister. The Claimant indicated that Käte Friedländer's other child, Wolfgang Friedländer, died without issue.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Käte Friedländer.

In support of his claim, the Claimant submitted a document issued by a bank named *Moritz Silberberg Bankgeschäft*, bearing a date stamp 29 June 1931, which appears to be an attachment to a tax return. This document indicates that Käte Friedländer owned various securities held at the Bank, including 36 shares of *Compania Hispano-Americana de Electricidad* Series A to C with a par value of 500.00 Pesetas each, 15 shares of Series D with a par value of 100.00 Pesetas each, and 17 shares of Series E with a par value of 100.00 Pesetas each; 5% *Eidgenössische Anleihe von 1925* bonds (at a nominal value of 20,000.00 Swiss Francs); 5% *Kanton Basel Stadt von 1926* bonds (at a nominal value of 7,000.00 Swiss Francs); and 5% *Schweizerische*

¹ *Sperrmarkdarlehen als Betriebskredit (Aufnahme eines Darlehens von Auswanderungsinteressenten).*

² *Nichtrückzahlung eines gewährten Kredits stellt keine Entziehungsmassnahme dar.*

Bundesbahnen von 1925 V. Elektrifikationsanleihe bonds (at a nominal value of 10,000.00 Swiss Francs). Finally, according to an undated document addressed to the tax office in Berlin-Wilmersdorf the Account Owner held, in addition to the securities listed above, 4% *Eidgenössische Anleihe 1930* bonds (at a nominal value of 7,500.00 Swiss Francs) with an unknown custodian.

Information Available in the Bank's Records

The Bank's records consist of a form containing the Account Owner's instructions regarding the account-related mail, signed by the Account Owner on 24 April 1933, and a printout from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) Käte Friedlaender. The Bank's records do not indicate the Account Owner's place of residence. According to these records, the Account Owner held one demand deposit account. The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account.

This account was not part of the Account History Database at the CRT, but was 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 databases comprising the approximately 4.1 million accounts representing the approximately 6.8 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 accounts, in databases located at the 59 ICEP audited Swiss banks,³ are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database -- the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

In order to expedite the results of the ICEP investigation, certain necessarily arbitrary presumptions were used to exclude the 1.9 million savings and Swiss address accounts from the probable or possible accounts category. The 2.2 million were matched against the ICEP's victims database, but the reason for their exclusion in at least a significant number of cases no longer appears to be valid in the light of the experience of the CRT in reviewing cases as part of the Claims Resolution Process. For example, many accounts were excluded from the Account History Database on the grounds of activity after 1945, but in some cases there now appears to be no evidence that the account owners had full dominion over the accounts and were not just inquiring whether the bank, after many years, still maintained the record of their deposits, a fact often denied by the banks in these circumstances as has been demonstrated in many Awards made by the CRT.

These two sources may contain significant numbers of accounts of Nazi victims, especially when it is considered that of the 33,000 claims that were submitted to the CRT, 21,000 did not match to the 36,000 accounts in the Account History Database of probable and possible Nazi victim accounts. Because of the significant potential of this body of accounts, in its final Report in December 1999, ICEP specifically recommended that all claims submitted to the CRT should be

³ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

matched against the applicable databases of accounts. The Rules Governing the Claims Resolution Process provide the procedures under which the TADs would be available for matching and research, but as a practical matter, until now, they have not been available to the CRT for this purpose.

Starting in the first week of this year, a test of the TAD was initiated at the Bank, with its full cooperation. The results of this test are now being compiled. This award is part of a group of accounts identified during the TAD test. Others are in the process. A final recommendation on the use of the TAD will be made to the Court when the final results of the test have been compiled.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His grandmother's name matches the unpublished name of the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents including his grandmother's property tax forms from 1930, in which his grandmother reported the values of two bank accounts in Switzerland, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Käte Friedländer. This supports the credibility of the information provided by the Claimant. Further, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different married name than the married name of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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 Germany in March 1939 due to Nazi persecution. The fact that the Account Owner was a Victim of Nazi persecution is also evidenced by the documents submitted by the Claimant regarding his grandmother.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents and specific information demonstrating that the Account Owner was his grandmother. These documents include his grandmother's 1930 property tax declaration; his grandmother's insurance policy for her jewelry, dated May 1937; documents sent to his grandmother from *Hardy & Company G.m.b.H.*, bankers in Berlin; a letter sent to his grandmother by the Chief Financial Officer of Karlsruhe, Germany, dated 22 November 1938; a letter, dated 18 August

1948, from Käte Friedländer to *Keramet*, contesting the loan; and a notification from the Restitution Office in Berlin to his grandmother. The CRT notes that these documents, most dated in the 1930s, which indicate the Account Owner's name, are documents most likely only a family member would possess, and also indicate that the Account Owner was well known to the Claimant as a family member.

The Issue of Who Received the Proceeds

The Account Owner's assets were subject to Nazi confiscation, as evidenced by the documents submitted by the Claimant, including documents concerning the flight tax levied upon the Account Owner when she fled Nazi Germany which indicate that she paid the sum of 307,400.00 Reichmarks from her account at the *Prussian National Bank* directly to a district financial office in Germany; documents sent to the Account Owner from *Hardy & Company G.m.b.H.*, bankers in Berlin, notifying her that in order for her to obtain access to her funds, *Deutsche Golddiskontbank* bought 150,000.00 Reichsmarks from her blocked account at a discount of 93.5%, which left her account with a balance of 9,750.00 Reichsmarks; a listing of the Account Owner's financial assets in Germany which indicates that she was forced to pay a fee for immigrants of 136,000.00 Reichsmarks and also a second flight tax (a 20% Jewish Assets Tax) of 305,725.00 Reichsmarks; and a letter sent to the Account Owner by the Chief Financial Officer of Karlsruhe, Germany, dated 22 November 1938, which informed her that the funds in her frozen accounts would be made available to German businesses in a so-called loan program that resulted in further confiscation of her assets.

Given this documented information providing specific evidence of the Nazi campaign initiated in 1933 to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner was forced to pay a "flight tax" before she fled Germany in 1939; that the Account Owner reported her Swiss bank accounts to the Nazis; that the Account Owner remained in Germany until March 1939, and would not have been able to repatriate her Swiss bank accounts to Germany without their confiscation; that there is no record of the payment of the Account Owner's account to her or her heirs; 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 (a), (d), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,⁴ 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

⁴ Appendix C appears on the CRT II website -- www.crt-ii.org.

Claimant has plausibly demonstrated that the Account Owner was his and his sisters' grandmother, that his cousin, Jonathan Goldberg, was the Account Owner's grandson; and that his cousins, Joyce Shapiro and Jeffrey Greenberg, are the Account Owner's great-grandchildren; and those relationships justify 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 account.

Amount of the Award

In this case, the Account Owner held one demand deposit 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 demand deposit account was 2,140.00 Swiss Francs. 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 26,750.00 Swiss Francs.

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 Account Owner who have submitted a claim, in equal shares by representation. Accordingly, the Claimant and his sisters, Gabriele Jackson and Vivian Stein, are each entitled to one-sixth of the total award amount; the Claimant's cousin, Jonathan Goldberg, is entitled to one-quarter of the total award amount; and the Claimant's cousins, Joyce Shapiro and Jeffrey Greenberg, are each entitled to one-eighth 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 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) 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
8 April 2004