

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Marianne Fröhlich

Claim Number: 217038/ZP¹

Award Amount: 15,351.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of [REDACTED].² This Award is to the unpublished account of Marianne Fröhlich (the “Account Owner”) at the Romanshorn branch of the [REDACTED] (the “Bank”).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 great-aunt, Anna Maria Kraus, née Fröhlich, who was born on 19 August 1880 in Austria, and was married to the Claimant’s great-uncle, [REDACTED], on 8 May 1902 in Vienna, Austria. The Claimant stated that [REDACTED] was the brother of the Claimant’s maternal grandfather, [REDACTED]. The Claimant further stated that his great-aunt used the variation “Marianne” as an alternative to her first name, Anne Maria. The Claimant indicated that his great-aunt and great-uncle, who were Jewish, had two children, [REDACTED], who was born on 10 May 1903 in Vienna, and [REDACTED], who was born on 14 May 1907, also in Vienna. The Claimant stated that his great-uncle was an industrialist, the proprietor of a paper-manufacturing group, and the vice-president of a food company named *Julius Meisl*. The Claimant further stated that the family lived at Nibelungengasse 13 in Vienna from approximately 1921 to 1943. The Claimant explained that both his great-aunt and great-uncle were murdered in Auschwitz on 31 October 1943. The Claimant indicated that he believed, but was not certain, that both children of Anne Marie and [REDACTED] currently live in the United States.

¹ The Claimant also submitted an additional claim to the accounts of [REDACTED], which is registered under the Claim Number 217039. The CRT will treat the claim to these accounts in a separate decision.

² The CRT will treat the claim to these accounts in a separate decision.

In support of his claim, the Claimant provided a letter from himself to the Swiss Banking Ombudsman, dated 24 October 1996, in which he indicated that he paid the Swiss Banking Ombudsman 300.00 Swiss Francs to search for accounts belonging to his relatives; a letter of reply, dated 5 February 1997, from the Swiss Banking Ombudsman to the Claimant in which the Swiss Banking Ombudsman replied that no accounts were found in the name of the Claimant's relatives and indicated that a check for 200.00 Swiss Francs was enclosed. The Claimant also submitted a copy of his birth certificate, which indicates that his birth name was [REDACTED] and which identifies his mother as [REDACTED], née [REDACTED]; a copy of his passport, which indicates that his name is [REDACTED]; and copies of his mother's birth certificate, indicating that she was born in Vienna on 18 May 1907, death certificate, and marriage certificate to her second husband.

The Claimant stated that he was born on 11 February 1924 in Prague, Czechoslovakia.

Information Available in the Bank's Records

The Bank's records consist of excerpts from the Bank's ledger. According to these records, the Account Owner was Marianne Fröhlich, who resided in Vienna, Austria. The Bank's records indicate that the Account Owner held a savings/passbook account, which was closed on 16 September 1952. The amount in the account on the date of its closure was 1,310.00 Swiss Francs. The Bank's records do not show to whom the account was closed. There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of [REDACTED], numbered 19202. The records indicate that [REDACTED] was married to Anna Maria Kraus, née Fröhlich, who was born on 19 August 1880 in Vienna, Austria, and that the couple had a son, [REDACTED], who was born on 10 May 1903 in Vienna. The records also indicate that Anna Maria Kraus used the name "Marianne." The CRT notes that the Account Owner's daughter [REDACTED] was not mentioned in the record. The records further indicate that the family resided at Nibelungengasse 13 in Vienna. The records also indicate that [REDACTED] was a businessman and was the president of the company *Austria-Papierindustrie AG* and the vice-president of *Meinl AG Ausserdam*. The records show that Marianne Kraus was stripped of her German citizenship as of 20 November 1940. According to these records, on 3 July 1940, [REDACTED] and Marianne Kraus, née Fröhlich, owned assets totaling 969,747.00 Reichsmarks (1938 value). The records indicate that they were assessed a so-called "flight tax" (*Reichsfluchtsteuer*) of 242,436.00 Reichsmarks. These records make no mention of assets held in a Swiss bank account.

The Austrian State Archives (Archive of the Republic, Finance) also contain documents

concerning the assets of Marianne Kraus, numbered 19201. The records indicate that Marianne Kraus was married to [REDACTED]. The records indicate that the family resided at Nibelungengasse 13 in Vienna. These records make reference to file number 19202. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name of his great-aunt matches the unpublished name of the Account Owner. The Claimant identified his great-aunt's residence as Vienna, Austria, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimant also identified his great-aunt's street address in Vienna, which matches information contained in the Austrian State Archives records pertaining to Anna Maria "Marianne" Kraus, née Fröhlich, and [REDACTED]. The Claimant also submitted his birth certificate and his mother's birth and death certificates, indicating her maiden name was [REDACTED] and that she was from Vienna, which matches information contained in the Austrian State Archives pertaining to the Account Owner's married name and city of residence. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Anna Maria Marianne Kraus, and indicates that her date of birth was 19 August 1880, and her place of birth was Baden *bei* Wien (near Vienna), which matches information about the Account Owner provided by the Claimant and contained in the Austrian State Archives. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT further notes that there are no other claims to this account. 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 perished in Auschwitz. As noted above, a person named Marianne Kraus 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 biographical information and documents, including his birth certificate; his mother's birth and death certificates, indicating her maiden name was [REDACTED] and that she was from Vienna; and his great-aunt's married name and street address, which matches information contained in the Austrian State Archives pertaining to the Account Owner's name, her city of residence, and her street address. The CRT notes that the Account Owner's account was not published on the February 2001 list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). The CRT further notes that the foregoing

information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner was Jewish, that she resided in Austria after the Nazis occupied the country on 11 March 1938 (the *Anschluss*); that the Account Owner was killed by the Nazis in 1943; that the account was closed in 1952; that there is no record of the payment of the Account Owner's account to her or to her heirs; that the Account Owner's heirs would not have been able to obtain information about the Account Owner's accounts 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' concerns regarding double liability; and the application of Presumptions (e), (h), (j) contained in Article 28 (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 Governing the Claims Resolution Process, as amended (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 great-aunt, and that relationship justifies an Award. Finally, 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

The bank records indicate that the value of the savings/passbook account as of 16 September 1952 was 1,310.00 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 120.00 Swiss Francs, which reflects standardized bank fees charged to the savings/passbook account between 1945 and 16 September 1952. This amount is reduced by 209.86 Swiss Francs, to reflect interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is 1,220.14 Swiss Francs. The present value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of 15,251.75 Swiss Francs.

The CRT also finds that the Claimant is entitled to be reimbursed 100.00 Swiss Francs, which is the remainder of the 300.00 Swiss Francs the Claimant paid the Swiss Banking Ombudsman in 1997 to search for Swiss accounts held by the Claimant's relatives. As noted above, the Swiss Banking Ombudsman refunded the Claimant 200.00 on 5 February 1997. Accordingly, the total award amount is 15,351.75 Swiss Francs.

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
6 February 2004