

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Julius Fuchs

Claim Number: 500404/MBC

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of [REDACTED].¹ This award is to the published account of Julius Fuchs (the “Account Owner”) over which Magdalene Fuchs (the “Power of Attorney Holder”) held power of attorney, at the Zurich 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 paternal grandfather, [REDACTED], who was married to the Power of Attorney Holder, [REDACTED], née [REDACTED]. The Claimant indicated that his grandparents, who were Jewish, lived at Nussdorferstrasse 60, in Vienna, Austria. According to information provided by the Claimant, his grandfather died in approximately 1930, and his father, [REDACTED], fled from Austria to London, the United Kingdom in 1938. The Claimant indicated that he is an only child, and his grandfather’s only surviving heir. The Claimant indicated that he was born on 6 July 1939 in Bromley, Kent, the United Kingdom.

Information Available in the Bank’s Records

The Bank’s records consist of a power of attorney form and printouts from the Bank’s database. According to these records, the Account Owner was Julius Fuchs, and the Power of Attorney Holder was his wife, [REDACTED], both of whom resided at Nussdorferstrasse 60, in Vienna. The Bank’s records indicate that the Account Owner held a custody account, over which he

¹ The CRT will treat the claim to this account in a separate determination.

granted power of attorney on 22 September 1931.² These records also contain signature samples for the Account Owner and the Power of Attorney Holder. 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.

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.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank informed the CRT that no additional documents were available.

Information Available from the Austrian State Archive

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 [REDACTED], numbered [REDACTED]. These documents indicated that [REDACTED], who was born on 17 November 1886, was a widow who resided at Nussdorferstrasse 60 in Vienna. These records include a letter from [REDACTED], [REDACTED]'s sister, to the Nazi authorities, dated 14 December 1938, indicating that by that time [REDACTED] resided in London, the United Kingdom. These records, which indicate that [REDACTED] owned assets worth approximately 38,000.00 Reichsmark ("RM") as of 14 December 1938, 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.³ The Claimant's grandfather's name

² The Bank's records contain a power of attorney form that references a "Titeldepot," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

³ The CRT notes that Claimant stated that his grandfather died in approximately 1930, but that the Bank's records indicate that the Account Owner signed the power of attorney form in September 1931. However, given that the Claimant has provided unpublished information about the Account Owner, the CRT finds that this discrepancy does not materially affect the Claimant's identification of the Account Owner. Furthermore, the CRT notes that the

and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant's grandmother's name matches the published name of the Power of Attorney Holder. The Claimant's grandmother's city and country of residence match the unpublished city and country of residence of the Power of Attorney Holder. The Claimant identified his grandparents' relationship and their street address in Vienna, which matches unpublished information contained in the Bank's records. The CRT also notes that the information in the Austrian State Archive records pertaining to [REDACTED] matches the information in the Bank's records and the information provided by the Claimant. Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner.

Status of the Account Owner as a Target of Nazi Persecution

The CRT notes that while the Account Owner died in approximately 1930 and thus was not a Victim of Nazi Persecution, the Account Owner's wife, and likely heir, was a Victim of Nazi Persecution. The Claimant stated that the Account Owner's wife and son were Jewish, that his wife lived in Nazi-controlled Austria, and that his son fled to the United Kingdom after the incorporation of Austria in the Reich in 1938 (the "*Anschluss*"). The CRT notes that the Account Owner's wife was required to declare her assets in the 1938 Census.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by providing specific information, demonstrating that the Account Owner was the Claimant's grandfather. The CRT notes that the Claimant identified unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records and 1938 Census records. Finally, the CRT 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 he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With respect to the Account Owner's custody account, given that the Account Owner died in approximately 1930, that the Power of Attorney Holder lived in Nazi-controlled Austria in 1938, and that she and the Account Owner's son fled Austria in 1938; that there is no record of the payment of the Account Owner's account to him or his heirs, nor any record of a date of closure of the custody account; that the Account Owner's heirs would not have been able to obtain information about his 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

information available in the Austrian State Archive indicates that Julius Fuchs was already deceased by the time that his wife, [REDACTED], filed her Austrian Census Form in 1938.

it is plausible that the custody 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 favour 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 grandfather, 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
23 June 2006