

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]

in re Account of Julius Isaac Fulda

Claim Numbers: 773858/MBC; 782571/MBC; 784538/MBC¹

Award Amount: 1,828,889.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the unpublished account of Julius Isaac Fulda (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 three Initial Questionnaires (“IQs”) identifying the Account Owner as his father, Julius John Fulton, formerly Julius Isaac Fulda, who was born on 5 December 1886 in Mainz, Germany, and was married to [REDACTED], née [REDACTED], in 1924. According to the Claimant, his parents had two children: [REDACTED], who was born in 1926, and the Claimant, who was born in 1929. The Claimant indicated that by 1931, his father, who was Jewish, owned one-third of his family’s bank in Mainz, *Bank Firma Isaac Fulda*. The Claimant further indicated that in October 1931 Julius Fulda sold his share in the bank to the two remaining owners: Julius Fulda’s paternal uncle, [REDACTED], and the latter’s son,

¹ [REDACTED 1] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted three Initial Questionnaires (“IQs”), numbered ENG-0138081, ENG-0493016, and ENG-0570156, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned Claim Numbers 773858, 782571, and 784538, respectively.

² In addition to the account addressed in this award, the Claimant also claimed accounts belonging to Isaac Fulda, Ernst Fulda, Margot Fulda, Alfred Meyer, Emmy Meyer, Jenny Meyer, and Ernst Meyer. In a separate decision, the CRT awarded the account of Isaac Fulda to the Claimant. See *In re Account of Isaac Fulda* (approved 11 April 2005). The CRT will treat the claims to the remaining accounts in separate decisions.

[REDACTED]. The Claimant indicated that his father had asked to be paid in liquid form, cash and securities, for his interest in the bank so that he could move his family to Switzerland until the Nazi danger had passed.

According to the Claimant, his family thus moved to Switzerland in 1932 or 1933. The Claimant stated that his father moved back to Germany in 1934 or early 1935 in order to seek medical treatment as he had been diagnosed with terminal cancer. The Claimant explained that his father opened a custody account at the Bank, in which he deposited about 60 percent of his total assets, worth between 100,000.00 and 200,000.00 Reichsmark (“RM”), at some time before returning to Mainz. The Claimant stated that his father was forced to bring his wife and their two sons (the Claimant and his elder brother, [REDACTED]) back to Germany in approximately 1935, and that at that time his father was compelled by Nazi authorities to declare and repatriate all his Swiss-held assets. However, according to the Claimant, his father did not declare all these assets, leaving about half of the assets he had deposited at the Bank in Switzerland. According to the Claimant, by 1935 all the assets the family held in the Reich had been blocked by Nazi authorities. The Claimant explained that after the *Kristallnacht* (Night of Broken Glass) pogrom in November 1938 his father attempted to regain entry into Switzerland, but was refused, and that he resided in Frankfurt am Main, Germany, between 1936 and January 1939. The Claimant stated that his father was arrested after the *Kristallnacht* and was interned for approximately two months in Dachau.

The Claimant explained that, through relatives, his immediate family obtained interim United States visas, which enabled the family to leave Germany via Holland for England in January 1939, from where they emigrated to the United States about a year later. According to the Claimant, his father had to leave all of his family’s assets behind, and neither his father nor his mother received the proceeds of the securities that had been deposited at the Bank in Switzerland. The Claimant stated that his father and mother died in the United States in 1983 and 2000, respectively.

The Claimant indicated that he was born on 3 March 1929 in Mainz. The Claimant is representing [REDACTED 2] and [REDACTED 3], the children of his brother, [REDACTED], who passed away in 1992.

In support of his claims, the Claimant submitted several documents, including: (1) his father’s birth certificate, indicating that Julius Isaac Fulda was born on 5 December 1886 in Mainz to *Bankier* (banker) [REDACTED] and [REDACTED], who were Jewish; (2) the Claimant’s birth certificate, indicating that he was born to *Bankier* Julius Isaac Fulda and [REDACTED], née [REDACTED], on 3 March 1929 in Mainz; (3) the Claimant’s father’s United States certificate of naturalization, issued by the United States District Court for the Northern District of California and dated 21 May 1945, indicating that he was formerly a German citizen, and that he legally changed his name from Julius Isaac Fulda to Julius John Fulton; (4) a death notice from an unspecified newspaper, indicating that Julius J. Fulton, husband of [REDACTED] and father of [REDACTED] and [REDACTED 1], died in San Francisco, California, on 1 May 1983; and (5) the death certificate of [REDACTED], indicating that he was the son of Julius Fulton and [REDACTED], née [REDACTED], and the father of [REDACTED 3], and that he died on 13 June 1992; (6) a death notice for [REDACTED] from the *San Francisco Examiner*, identifying

his parents as Julius and [REDACTED], his brother as [REDACTED 1], and two daughters as [REDACTED 3] and [REDACTED 2].

In addition, the Claimant submitted documents evidencing the existence of an account at the Bank, which are described in detail below.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Julius Isaac Fulda during their investigation of the Bank. The documents evidencing the existence of an account were submitted by the Claimant and include a handwritten balance sheet entitled *Vermögensaufstellung mit unterschrieblicher Bestätigung zur Stellung eines Auswandererfreigabeantrages bei der Devisenstelle* ("List of assets with a signed confirmation for an emigrant application to the Foreign Exchange Office for the release of assets"), and headed "*Stichtag* (date of record or date of note) 1 Jan 1935." The Claimant indicated that the balance sheet was in an accounting book his parents kept for tax purposes in Germany between 1926 and February 1939. It ends with an asset declaration (*Vermögensaufstellung*) [REDACTED] submitted 17 February 1939 with assets as of ("*Stichtag*") 1 January 1935. The balance sheet includes the item *Wertpapiere: Inländische Safe, Deutsche Bank, Reichshbk. RM 179433.--; Ausländische bei [the Bank] Zürich RM 118279.--, davon Altbesitz 118279, Neubesitz ---*, indicating that domestic securities worth 179,433.00 Reichsmark ("RM") were held in a safe at *Deutsche Bank* and/or the *Reichshauptbank für Wertpapiere*,³ and that foreign securities worth RM 118,279.00, none of which were newly acquired, were held at the Bank in Zurich as per *Stichtag* (as of) 1 January 1935. The balance sheet concludes with an affidavit regarding the completeness and accuracy of the list,⁴ with the date, 20 December 1938, and the place, Frankfurt am Main.

The Claimant further submitted six bank slips, dated 30 August 1938 and 5 October 1938, addressed to Julius Fulda and *Frau* ("Mrs.") [REDACTED], née [REDACTED], from the Frankfurt branch of the *Deutsche Bank* and bearing a stamp from the *Hessische Bank*. These slips indicate the purchase by the German banks from the Claimant's parents of foreign bonds valued in Swiss Francs, United States Dollars, British Pounds, and Argentinean Pesos and a credit for their net proceeds in Reichsmark. The slips indicate that the purchases were performed pursuant to orders placed on 16 and 20 August 1938, and that securities worth approximately RM 58,000.00 were sold during this time. The bank slips include a statement that the sales were completed *zu Gunsten rubr. Kontos* ("for the benefit of the denoted account"), but there is no other indication of this account aside from the names of the addressees. The CRT notes that it is unclear if this was an account at the *Deutsche Bank* or the *Hessische Bank*, or if the Account Owner was able to access the proceeds from the sales. It is noted on the slips that the securities were held in Berlin, Buenos Aires, and Zurich and sold in Zurich or New York. Three slips, one

³ The *Reichshauptbank für Wertpapiere* was a division of the Central Bank ("*Reichsbank*") in Berlin.

⁴ "*Ich versichere hiermit die Richtigkeit und Vollständigkeit der Aufstellung.*"

dated 30 August 1938 and two dated 5 October 1938, refer to securities held in Zurich. The proceeds of these three sales amounted to RM 31,568.95.⁵ According to the bank slips, one of which relates to *Stücke aus Streifb. Dep. i/Zürich* (“securities from a jacket custody account in Zurich”), the following Swiss-held securities were purchased by the German banks: SF 10,000.00 4½% *Eidgenöss. Staatsanl. v. 1926*, and US \$2,000.00 4 ½% Canadian Pacific bonds per 1.9.46 and US \$6,000.00 4% Union Pacific Railroad Co. Gold bonds p. 1.7.47.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant identified the Account Owner’s name and marital status, which match information about the Account Owner contained in the bank records from *Deutsche Bank* and *Hessische Bank*, which in turn indicate securities held in Zurich, including securities in a securities jacket custody account. In support of his claims, the Claimant submitted documents, including his father’s birth certificate and his father’s naturalization certificate, providing independent verification that the Claimant’s father had the same name as the seller of the foreign securities addressed in the bank slips. The Claimant further submitted a handwritten balance sheet, which indicates a balance of RM 118,279.00 in foreign securities held at the Bank as of (“*Stichtag*”) 1 January 1935. The purpose of the balance sheet, described as a list of assets with signed confirmation for an emigrant application to the Foreign Exchange Government Office for the release of assets and dated 20 December 1938, corresponds to the Claimant’s indication that his parents prepared to flee Germany for the United States in early 1939.

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, that he was arrested in November 1938 and interned in Dachau for approximately two months, and that he and his immediate family fled Germany in early 1939.

⁵ This abbreviation refers to a *Streifbanddepot*, or jacket custody account, which, in contrast to a collective custody account, is a special depository for the securities of private bank customers. The securities of each individual customer are bound together with a band, denoting the individual customer’s name and other identification. See entry for “*Sonderverwahrung*” at <http://www.wirtschaftslexikon24.net/d/sonderverwahrung/sonderverwahrung.htm>, and entry for “individual custody account” at <http://www.ubs.com/1/e/about/bterms.html>.

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 own birth certificate, the Account Owner's death notice, and the Claimant's brother's death certificate and notice, demonstrating that the Account Owner was the father of the Claimant and the grandfather of the represented parties. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The slips from the *Deutsche* and *Hessische* banks indicate that the Account Owner sold foreign securities from a custody account in Zurich per order of August 1938. According to the Claimant, the Account Owner left an unknown sum in the custody account at the Bank. Given that the Account Owner was denied entry into Switzerland; that the bank slips submitted by the Claimant demonstrate that by the time the Account Owner was imprisoned in Dachau in late 1938, the Nazi authorities were aware that the Account Owner held assets in Switzerland beyond the proceeds documented as received from the August 1938 sales orders; that the Account Owner remained in Germany until 1939, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of all of the assets in the Account Owner's account to him; that the Account Owner and his 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 Presumption (h), 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 or his 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 and represented parties [REDACTED 2] and [REDACTED 3]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was his father and the grandfather of represented parties [REDACTED 2] and [REDACTED 3], and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a custody account. The CRT notes that the balance sheet dated 20 December 1938 indicates that the Account Owner held securities in Zurich totaling RM 118,279.00 as of ("Stichtag") 1 January 1935. Further, according to the six bank slips, dated

between 30 August 1938 and 5 October 1938, German banks purchased foreign bonds valued in Swiss Francs, United States Dollars, British Pounds, and Argentinean Pesos pursuant to orders placed on 16 and 20 August 1938, and that the total proceeds from securities held in Zurich was RM 31,568.95, including fees and interest. The bank slips include a statement that the sales were completed *zu Gunsten rubr. Kontos* (“for the benefit of the denoted account”), but there is no other indication of this account aside from the names of the addressees, and there is no indication that the Account Owner was able to access the proceeds of these sales. Three slips, dated 30 August and 5 October 1938, indicate that the following securities were purchased by the German banks SF 10,000.00 4½% *Eidgenöss. Staatsanl. v. 1926* held in the jacket custody account in Zurich and US \$2,000.00 4½% Canadian Pacific bonds per 1.9.46; and US \$6,000.00 4% Union Pacific Railroad Co. Gold bonds p. 1.7.47. It is not clear whether the securities noted in the bank slips were all that was originally deposited in Zurich.

The CRT notes that the balance sheet was submitted in connection with the Account Owner’s emigrant application to the Foreign Exchange Office for the release of assets, that it concludes with an affidavit regarding the completeness and accuracy of the list, and that it is dated 20 December 1938, at which time, according to the Claimant, his father was interned in Dachau following his arrest during the *Kristallnacht* pogrom. The CRT notes that the Account Owner would have declared owning securities in that amount under pressure and against his own interest as he was interned in Dachau at the time and was seeking not only his release from Dachau but also permission for his family to emigrate. It is clear that in this case, as demonstrated in many others like it, the Nazi authorities, once aware of the value of his assets, would demand that the assets be turned over prior to the Account Owner’s release from Dachau and his and his family’s subsequent emigration. The CRT notes further that both the 20 December 1938 balance sheet and the 17 February 1939 asset declaration submitted by the Claimant’s mother bear the notation *Stichtag* 1 January 1935, but considers that under the circumstances the Account Owner would not have made a declaration of portfolio holdings as of a date on which the portfolio value exceeded that actually held at the date of declaration. The CRT therefore concludes that the amount of securities held in Zurich cited by the Account Owner is reliable not only as of 1 January 1935, but also at a later date, and that it shall be used as the basis of the award amount. Accordingly, the CRT determines that the value of the account as of 1 January 1935 was RM 118,279.00, which was equivalent to SF 146,311.12.⁶ 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 1,828,889.00.

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 the account owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his late brother’s daughters, [REDACTED 2] and [REDACTED 3]. Accordingly, the Claimant is entitled to one-half of the total award amount, and [REDACTED 2] and [REDACTED 3] are each entitled to one-fourth of the total award amount.

⁶ In making currency conversions, the CRT uses official exchange rates.

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 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
18 December 2008