

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by [REDACTED 2]

and Claimant [REDACTED 3]

in re Account of Irene Kessler

Claim Numbers: 773483/MBC; 775011/MBC¹

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED1]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Victor Mandler. This award is to the unpublished account of Irene Kessler (the “Account Owner”) at the Binningen branch of the [REDACTED] (the “Bank”).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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants, who are siblings, each submitted an Initial Questionnaire (“IQ”) identifying the Account Owner their mother, Irene Mandler, née Kessler, who was born on 9 February 1896 and was married to [REDACTED], who was born on 16 December 1897. The Claimants indicated that their mother, who was Jewish, resided at Schönbrunnerstrasse 219 in Vienna XII, Austria from 1934 until 1939. The Claimants explained that in 1939, after the incorporation of Austria in the German Reich in March 1938 (the “*Anschluss*”), their mother emigrated to the United States, where she died in approximately in 1967. Claimant [REDACTED 1] further indicated

¹ [REDACTED 3] (“Claimant [REDACTED 3]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit Claim Forms to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQs”), numbered ENG-0124-165 and ENG-0181-115, respectively, 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 Initial Questionnaires 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 773483 and 775011, respectively.

that her parents owned a country villa on Isabelle Str. 18 in Bade bei Wien (near Vienna), Austria.

In support of her claim, Claimant [REDACTED 1] submitted a receipt for a sale of her mother's jewelry for payment of her atonement tax (*Judenvermögensabgabe*), which indicates that Irene Mandler resided at Schönbrunnerstr. 219 in Vienna and that her assets were confiscated by Nazi authorities.

Claimant [REDACTED 1] indicated that she was born on 12 May 1925 in Vienna. Claimant [REDACTED 3] indicated that he was born on 11 April 1930 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a report of the auditors who carried out the investigation of this Bank to identify Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"). According to this record, the Account Owner was Irene Kessler. The Bank's record does not indicate the Account Owner's place of residence.

The Bank's record indicates that the Account Owner held a savings/passbook account, which was transferred to a suspense account on 29 December 1984. The amount in the account on the date of the transfer was 62.85 Swiss Francs ("SF").

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 Irene Mandler, numbered 19469.

These records indicate that Irene Mandler, née Kessler, was born on 9 February 1896, lived at Schönbrunnerstrasse 219 in Vienna, and was married to [REDACTED]. Additionally, the records indicate that Irene Mandler owned a family house in Baden bei Wien valued at 17,000.00 Reichsmark ("RM"), RM 215.50 worth of jewelry, and RM 12,900.00 worth of other assets. These records make no mention of assets held in a Swiss bank account.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants' mother's name matches the unpublished name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name. In support of her claim, Claimant [REDACTED 1] submitted a receipt of sale that indicates that her mother's jewelry was sold to pay a Nazi-imposed tax, 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 there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have 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, lived in Nazi-occupied Austria, and that she emigrated from Austria to the United States in 1939. The CRT notes that the Account Owner was required to register her assets pursuant to the 1938 Census.

The Claimant's Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by identifying specific biographical information demonstrating that the Account Owner was the Claimants' mother. The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record and the records of the Austrian State Archive.

The CRT further notes that the Claimant submitted a copy of a receipt of sale, which indicates that Irene Mandler resided at Schönbrunnerstr, 219 in Vienna, and shows that she was required to pay a Nazi-imposed tax. The CRT notes that it is plausible that this document is a document that most likely only a family member would possess. 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their IQs. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred on 29 December 1984 to a suspense account, where it remains today.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their mother, and that relationship justifies an Award. Third, the CRT has determined 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 savings/passbook account. The Bank's record indicates that the value of the account as of 29 December 1984 was SF 62.85. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 625.00, which reflects numbered account fees and standardized bank fees charged to the savings/passbook account between 1945 and 1984. Consequently, the adjusted balance of the account at issue is SF 687.85. According to Article 29 of the Rules, if the amount of the savings/passbook account is less than SF 830.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 10,375.00.

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 Claimants are both children of the Account Owner. Accordingly, the Claimants are each entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
27 February 2007