

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and Claimant [REDACTED 2]

in re Account of Alexander Klein

Claim Numbers: 670011/AE; 723481/AE^{1, 2, 3}

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of [REDACTED] and [REDACTED], née [REDACTED], and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) to the account of Alexander Klein.⁴ This Award is to the unpublished account of Alexander Klein (the “Account Owner”) at the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at the Bank.

¹ Claimant [REDACTED 1] submitted a claim, numbered B-01639, on 30 December 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT, and was subsequently closed by the HCPO. The CRT has assigned the Claim Number 670011 to this claim.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered HEB 0322-002, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 723481.

³ Claimant [REDACTED 2] submitted an additional IQ, numbered HEB-0317-191, to the Court, which was also forwarded to the CRT and has been assigned claim number 723308. In this claim, Claimant [REDACTED 2] claimed the accounts of [REDACTED]. The CRT did not locate an account belonging to Claimant [REDACTED 2]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Claimant [REDACTED 2] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 2] or upon information from other sources.

⁴ The CRT did not locate an account belonging to Claimant [REDACTED 1]’s relatives, [REDACTED] and [REDACTED], née [REDACTED], in the Account History Database prepared pursuant to the ICEP Investigation. Claimant [REDACTED 1] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 1] or upon information from other sources.

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

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her father, Alexander Klein, who was married to [REDACTED], née [REDACTED]. According to information provided by the HCPO, and by Claimant [REDACTED 1] in a telephone conversation with the CRT on 9 June 2005, Claimant [REDACTED 1]’s father was born on 27 January 1900 in Debrecen, Hungary, and was married on 19 February 1928 in Vienna, Austria. Claimant [REDACTED 1] further indicated that her father, who was Jewish, moved to Vienna prior to 1927, that he studied at the University of Vienna, and that he subsequently worked as an oral surgeon in Vienna. In addition, Claimant [REDACTED 1] indicated that she and her mother left Vienna for Philadelphia, Pennsylvania, the United States, in 1938. Claimant [REDACTED 1] indicated that, after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), her father initially remained in Vienna, but that he was eventually unable to continue practicing medicine and was forced to live in hiding, and that he therefore fled to Shanghai, China in 1939 or 1940. Claimant [REDACTED 1] additionally indicated that her father joined his family in Philadelphia in 1946, and that he passed away on 15 July 1968 in New York, the United States. Claimant [REDACTED 1] submitted an unsigned Petition for Preliminary Letters Testamentary, relating to the testament of [REDACTED], the Claimant’s maternal aunt, identifying [REDACTED] of Pennsylvania as [REDACTED]’s sister, and Claimant [REDACTED 1] as [REDACTED]’s representative pursuant to a durable power of attorney. Claimant [REDACTED 1] indicated that she was born on 3 April 1930 in Vienna.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her father, Alexander Klein, who was born on 20 August 1874 in Ungwar, Hungary, and was married to [REDACTED], née [REDACTED]. In a telephone conversation with the CRT on 11 July 2005, the Claimant’s son, [REDACTED], indicated that Claimant [REDACTED 2]’s parents had one other child, [REDACTED]. Claimant [REDACTED 2]’s son further indicated that Claimant [REDACTED 2] and her family resided at Glasergasse 9, in Vienna, Austria, until the end of 1940, at which time they fled Vienna because of Nazi persecution. Claimant [REDACTED 2]’s son indicated that Claimant [REDACTED 2] and her family members, who were all Jewish, intended to immigrate to Palestine, but that they were denied entry and sent to a detention camp in Mauritius, where Claimant [REDACTED 2]’s father died. Claimant [REDACTED 2]’s son further indicated that Claimant [REDACTED 2] and the remainder of her family remained at the camp until 1949, when they immigrated to Israel, where Claimant [REDACTED 2]’s mother died on 16 March 1965.

Claimant [REDACTED 2]'s son submitted Alexander Klein's identity card, issued in Vienna in 1939, indicating that his name was Alexander Klein and that he resided in Vienna; a bank document from the *Österreichische Länderbank*, indicating that Alexander Klein owned a custody account, and that he resided in Vienna IX until 1940; Alexander Klein's death certificate, indicating that he died in Mauritius, where he was a detainee, on 22 January 1941; Claimant [REDACTED 2]'s mother's death certificate, indicating that [REDACTED] passed away on 16 March 1965; and Claimant [REDACTED 2]'s Israeli identity card, indicating that her father's first name was Alexander and that her mother's first name was [REDACTED]. Claimant [REDACTED 2] indicated that she was born on 30 November 1914.

Information Available in the Bank's Records

The Bank's record consists of a copy of a custody account statement, dated 21 January 1927. According to this record, the Account Owner was Alexander Klein, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a custody account, numbered 23245, and that this account contained securities identified as 30 preferred shares of *Société Nationale des Chemins de fer Belges, Schweizer Tranche*, as of 31 December 1926. The Bank's record does not show when the account at issue was closed. 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.

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 several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 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 million accounts, in databases located at the 59 ICEP audited Swiss banks,⁵ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 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, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution. The account awarded is part of a group of accounts identified in the TAD.

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

⁵ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

Alexander Klein, numbered 40769. These records indicate that Alexander Klein was born on 20 August 1874, that he was married to [REDACTED], née [REDACTED], and that he was a businessman. These records further indicate that Alexander and [REDACTED] Klein resided at Glasergasse 9 in Vienna IX. In addition to Alexander Klein's asset declaration, the file contains correspondence, including updates to the asset declaration. This correspondence includes a list, dated 12 December 1938, compiled by Alexander Klein of his net assets, which he valued at 100,000.00 Reichsmark ("RM") and upon which he figured his atonement tax due at that date as RM 5,000.00. According to an update, dated 10 August 1939, Alexander Klein's atonement tax liability was reassessed at RM 4,250.00, of which RM 2,550.00 had been paid. According to the correspondence, Alexander Klein had two children, [REDACTED 2] and [REDACTED], whose emigration had been arranged and paid for sometime between 27 April 1938 and 10 August 1939. 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

Claimant [REDACTED 1]'s father's and Claimant [REDACTED 2]'s father's names and city and country of residence match the unpublished name and city and country of residence of the Account Owner.

In support of Claimant [REDACTED 2]'s claim, Claimant [REDACTED 2]'s son submitted documents, including Claimant [REDACTED 2]'s father's identity card, indicating that his name was Alexander Klein and that he resided in Vienna, providing independent verification that the person who is claimed to be the Account Owner by Claimant [REDACTED 2] had the same name and city and country of residence recorded in the Bank's record as the name and city and country of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all unpublished information about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owner, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] indicated that her father was Jewish, that he lived in Vienna, where he was unable to practice medicine and was forced to live in hiding after the *Anschluss*, and that he subsequently fled to China. Claimant [REDACTED 2]'s son indicated that Claimant [REDACTED 2]'s father resided in Vienna until 1940, that he attempted to emigrate to Palestine, and that he was interned in a detention camp in Mauritius, where he died in 1941.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father. The CRT notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that Claimant [REDACTED 1] submitted a copy of an unsigned Petition for Preliminary Letters Testamentary, relating to the testament of [REDACTED], the Claimant's maternal aunt, identifying [REDACTED] as [REDACTED]'s sister, and Claimant [REDACTED 1] as [REDACTED 1]'s representative pursuant to a durable power of attorney. The CRT notes that this document indicates that Claimant [REDACTED 1] assumed a role in relation to [REDACTED] that is most commonly assumed by family members, and that it is plausible that this document is a document which most likely only a family member would possess. Therefore, this document provides independent verification that Claimant [REDACTED 1]'s relatives bore the same family name as the Account Owner. 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 Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs who have submitted a claim.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father. These documents include Claimant [REDACTED 2]'s Israeli identity card, indicating that her father's first name was Alexander. The CRT notes that Claimant [REDACTED 2] identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that Claimant [REDACTED 2] submitted a copy of Alexander Klein's identity card, issued in Vienna in 1939, and of his death certificate. The CRT notes that it is plausible that these documents are documents which 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 Claimant [REDACTED 2] as a family member, and all of this information supports the

plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs who have submitted a claim.

The Issue of Who Received the Proceeds

Given that Claimant [REDACTED 1]'s father resided in Austria after the *Anschluss*, and that he was forced to live in hiding there before fleeing to China; that Claimant [REDACTED 2]'s father similarly resided in Austria after the *Anschluss*, that he attempted to immigrate to Palestine in 1940 and was subsequently interned in a detention camp in Mauritius, where he passed away in 1941; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that Claimant [REDACTED 1]'s father and his heirs, and Claimant [REDACTED 2]'s father's heirs, would not have been able to obtain information about the 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 it is plausible that the account was 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 Claimants. First, the claims are 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 father, and those relationships justify an Award. Third, the CRT has determined 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 one custody account. The CRT notes that the Bank's record indicates that the account contained a particular security in December 1926, but it does not indicate whether the account contained additional securities after 1926. Accordingly, the CRT determines that the value of the account is unknown. Pursuant to Article 29 of the Rules, when the value of an account is unknown, 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.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be

precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 2] have each established a plausible relationship to a person with the same name and city of residence as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] 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
21 September 2005

This document was created with Win2PDF available at <http://www.daneprairie.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.