

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED], [REDACTED], [REDACTED], [REDACTED], and
[REDACTED], represented by [REDACTED]

in re Accounts of Jakob Klein

Claim Number: 223453/PY¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Jakob Klein (the “Account Owner”) at 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 maternal great-uncle, Jakob (Lazar) Klein, who was born in 1869 to [REDACTED] and [REDACTED] [REDACTED] in Radosovce, Czechoslovakia. The Claimant stated that Jakob Klein was the brother of the Claimant’s maternal grandmother, [REDACTED], née [REDACTED], who was born in 1870 in Radosovce, and who died in 1963 in Lipt. Mikulas, Czechoslovakia. The Claimant stated that his great-uncle, who was Jewish, resided in Radosovce until 1889, when he left for Vienna, Austria. The Claimant further stated that his great-uncle resided alternately between 1914 and 1920 in Vienna and in Radosovce, and thereafter permanently in Vienna. In correspondence with the CRT, dated 30 October 2002, the Claimant’s son, who represents the Claimant, stated that his father’s maternal grandmother told the Claimant that the last contact with Jakob Klein was prior to the Second World War, and that he did not survive the Holocaust. The Claimant’s son also stated that his father’s maternal aunt, [REDACTED], and her son, [REDACTED], who remained in Austria, both perished in the Holocaust. In support of his claim, the Claimant submitted a detailed family tree, his own birth certificate, his mother’s birth certificate and his grandmother’s death certificate, showing that he is the grandson of [REDACTED], née [REDACTED], who was the daughter of [REDACTED] and [REDACTED].

¹ The Claimant submitted additional claims to the account of [REDACTED], which are registered under the Claim Numbers 223450 and 223454. The CRT will treat the claims to this account in a separate decision.

Furthermore, the Claimant submitted a picture of the Klein family, in which Jakob Klein is said to appear. Finally, the Claimant submitted a document that certifies that property belonging to the Claimant's family in Czechoslovakia had been "aryanized" and that identifies [REDACTED], née [REDACTED], as a family member.

The Claimant indicated that he was born on 23 June 1923 in Vieska, Czechoslovakia. The Claimant is representing the following individuals: [REDACTED], his brother, who was born on 7 June 1926, also in Vieska; his nephew [REDACTED], who was born on 13 July 1949 in Vieska; his nephew [REDACTED], who was born on 9 October 1956; his niece, [REDACTED], née [REDACTED], who was born on 9 August 1954 in Skalica, Czechoslovakia; and his great-nephew, [REDACTED], who was born on 15 May 1970 in Plzen, Czechoslovakia, and who is the son of the Claimant's late niece, [REDACTED], née [REDACTED]. The Claimant indicated that [REDACTED], [REDACTED], [REDACTED] and [REDACTED] are all children of the Claimant's late sister, [REDACTED], née [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Jakob Klein, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a custody account numbered L31335, which was opened on 28 February 1927, and a demand deposit account opened on 28 November 1922. The custody account numbered L31335 was closed on 22 August 1938, and the demand deposit account was closed on 31 January 1939. The Bank's record does not show to whom the accounts paid, nor do these records indicate the value of these accounts. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazis 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 Jakob Klein, numbered 39283. These records indicate that Jakob Klein was Jewish, that he was born on 14 September 1869, and that he was married to [REDACTED], née [REDACTED]. The records show that Jakob Klein resided at Staudgasse 14 in Vienna XVIII, and that he owned a leather business. The records also show that Jakob Klein owned assets amounting to approximately 6,550.00 Reichsmarks (1938 value), comprised mostly of business capital, and that on 10 November 1938, the Nazis shut down his business. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-uncle's name and city of residence match the published name and city of residence of the Account Owner. The Claimant stated that his great-uncle was born in 1869, which matches information contained in the Austrian State Archives. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name and place of residence. In support of his claim, the Claimant submitted documents including his own birth certificate, his mother's birth certificate and his grandmother's death certificate, showing that he is the grandson of [REDACTED], née [REDACTED], who was the daughter of [REDACTED] and [REDACTED]. Furthermore, the Claimant submitted a picture of the Klein family, in which Jakob Klein is said to appear. Finally, the Claimant submitted a document that certifies that the property of the Claimant's family in Czechoslovakia had been "aryanized" and that identifies [REDACTED], née [REDACTED], as a family member.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Jakob Klein, that his date of birth was 14 September 1869, and that he resided in Vienna, which match the information about the Account Owner provided by the Claimant and that available 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 the name Jakob Klein only appears once on the February 2001 published list of accounts identified by the Independent Committee of Eminent Persons ("ICEP") as those probably or possibly belonging to Victims of Nazi Persecution. Finally, the CRT notes that other claims to these accounts were disconfirmed due to inconsistent country of residence information provided by the other claimants. 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, that he lived in Austria during the Second World War, and that he did not survive the Holocaust. As noted above, a person named Jakob Klein 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 his own and his mother's birth certificates and his grandmother's death certificate, showing that he is the grandson of [REDACTED], née [REDACTED], who was the daughter of [REDACTED] and [REDACTED]; a picture of the Klein family, in which Jakob Klein is said to appear; and a family tree.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled banks. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds in this case were paid to the Nazis; that there is no indication in the records regarding who authorized the closure of the accounts; that the Account Owners and their heirs would not have been able to obtain information about their 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' concern regarding double liability; and the application of Presumptions (a), (h), (i) 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 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. 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-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit 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 investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs, producing a total of 15,140.00 Swiss Francs in this case. 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 189,250.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant and his brother [REDACTED], whom he represents, are the great-grandchildren of the Account Owner's parents. [REDACTED], [REDACTED] and [REDACTED], are children of the Claimant's and [REDACTED]'s deceased sister, [REDACTED], née [REDACTED], and [REDACTED] is the grandson of [REDACTED] (the son of [REDACTED]'s deceased daughter [REDACTED], née [REDACTED]). Accordingly,

the Claimant and [REDACTED] are each entitled to one-third of the total Award amount, and [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are entitled to share equally the remaining one-third of the total Award amount (one-twelfth each of the total Award amount).

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
September 15, 2003