

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

to Claimant [REDACTED 3],

and to the Estate of Claimant [REDACTED 4]¹
also acting on behalf of [REDACTED 5] and [REDACTED 6]

in re Accounts of Marcel Klein and Sylvain Klein

Claim Numbers: 219450/NB; 223089/NB; 501396/NB; 501651/NB; 501652/NB

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the published accounts of Sylvain Klein and Marcel Klein, the claim of [REDACTED 2], née [REDACTED] ([REDACTED]), (“Claimant [REDACTED 2]”) to the published accounts of Sylvain Klein, and the claims of [REDACTED 4] (“Claimant [REDACTED 4]”) and [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of Marcel Klein.²

This award is to the published account of Marcel Klein (“Account Owner Marcel Klein”) and to the published account of Sylvain Klein (“Account Owner Sylvain Klein”) (together the “Account Owners”) at the Geneva branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as the Claimants have in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

¹ The CRT notes that Claimant [REDACTED 4] passed away on 23 July 2003.

² In a separate decision, the CRT awarded the accounts of Marcel Klein and Sylvain Klein to the Claimants. See *In re Accounts of Marcel Klein and Sylvain Klein* (approved on 4 April 2003). In another separate decision, the CRT awarded the accounts of Yvonne Levy to the Claimants. See *In re Accounts of Yvonne Levy* (approved on 18 November 2004). Finally, in a third decision, the CRT awarded the account of Yvonne Berthe Klein to the Claimants. See *In re Account of Yvonne Berthe Klein* (approved on 20 October 2006).

Information Provided by the Claimants

The Claimants, who are related, submitted Claim Forms identifying Account Owner Marcel Klein and Account Owner Sylvain Klein as brothers.

According to the Claimants, Account Owner Marcel Klein is Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s maternal great-uncle, Claimant [REDACTED 4]'s maternal uncle and Claimant [REDACTED 3]'s uncle by marriage. Account Owner Sylvain Klein is Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s maternal grandfather, Claimant [REDACTED 4]'s maternal uncle, and Claimant [REDACTED 3]'s uncle by marriage.

The Claimants indicated that Marcel Klein, who was Jewish, was born on 2 March 1886 in Obernai, France, and was married to [REDACTED], née [REDACTED], on 5 September 1921 in Haguenau, France. The Claimants explained that [REDACTED] had one sister, [REDACTED] (the mother of [REDACTED 5] and [REDACTED 6]). The Claimants stated that Sylvain Klein, who was also Jewish, was born on 24 December 1887 in Obernai, and was married to [REDACTED], née [REDACTED], on 23 July 1923, also in Obernai.

The Claimants explained that Marcel and Sylvain Klein were industrialists who owned *Klein Frères*, a factory located at Route de Bernardsviller in Obernai that manufactured brushes and brooms. According to the Claimants, Marcel Klein resided in Obernai from 1921 until 1940, when he moved to Toulouse, France, where he was arrested by the Nazis and deported in July 1944. The Claimants stated that Marcel Klein perished in April 1945 en route from the Buchenwald concentration camp to Auschwitz. The Claimants further stated that Marcel Klein's wife, [REDACTED], perished in the Ravensbrück concentration camp in July 1944.

The Claimants stated that Sylvain Klein lived in Obernai until 1939, when he fled with his wife and daughter to the Vosges, then to Marseilles, France, and finally to Caraman, near Toulouse, France. The Claimants stated that Sylvain Klein and his family returned to Obernai after the end of the Second World War in 1945, and that he lived there until his death in Strasbourg, France, on 1 February 1977.

In support of their claims, the Claimants submitted documents, including:

- 1) Sylvain Klein's birth certificate, indicating that Sigefroi (Siegfried) Silvain (Silvin) was born on 24 December 1887 and that his parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that he married [REDACTED] on 23 July 1923 in Obernai and that he died on 1 February 1977 in Strasbourg;
- 2) Marcel Klein's birth certificate, indicating that Moise Marcel Klein was born on 2 March 1886, that his parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that he married [REDACTED] on 5 September 1921 and that he died in Germany in early April 1945;
- 3) the birth certificate of [REDACTED] (who was Marcel and Sylvain Klein's sister and Claimant [REDACTED 4]'s mother), indicating that she was born on 5 June 1893, that her parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that she married [REDACTED] on 16 August 1920;

- 4) Claimant [REDACTED 4]'s birth certificate, indicating that [REDACTED 4] was born on 21 July 1921, that his parents were [REDACTED] and [REDACTED], née [REDACTED], and indicating that he married [REDACTED 3] on 4 July 1951;
- 5) Marcel and [REDACTED]'s marriage certificate, indicating that Moses Marzell Klein married [REDACTED] on 5 September 1921, and that they were Jewish;
- 6) the death certificate of [REDACTED], née [REDACTED], indicating that she was born on 12 September 1898, that she was declared deceased by a French court in 1947, and that she "died for France" ("*mort pour la France*");
- 7) the death certificate of [REDACTED], indicating that he was born on 25 August 1924, that his parents were Moise Marcel Klein and [REDACTED], that he was declared deceased by a French court in 1947, and that he died for France;
- 8) a certificate of inheritance, indicating that [REDACTED], who was the widow of Sigefroi Silvain Klein, died on 23 October 1984 and that her daughter and sole heir was [REDACTED], who was married to [REDACTED];
- 9) the death certificate of [REDACTED], dated 31 August 2000, indicating that she was the daughter of Sigefroi Silvain Klein and [REDACTED];
- 10) a certificate of inheritance, dated 19 September 2000, indicating that [REDACTED] was married to [REDACTED], that she was divorced from [REDACTED], and that her two heirs were her children, [REDACTED 2], née [REDACTED], and [REDACTED 1], who were to receive equal shares of her estate;
- 11) a certificate indicating that [REDACTED 4] died on 10 July 2003 and that [REDACTED 3], née [REDACTED], is his widow and heir; and
- 12) the Claimants' family tree, indicating that Marcel Klein is Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s maternal great-uncle, Claimant [REDACTED 4]'s maternal uncle and Claimant [REDACTED 3]'s uncle by marriage, and that Sylvain Klein is Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s maternal grandfather, Claimant [REDACTED 4]'s maternal uncle and Claimant [REDACTED 3]'s uncle by marriage.

Claimant [REDACTED 1] indicated that he was born on 1 January 1952 in Toulon, France. Claimant [REDACTED 2] indicated that she was born on 19 July 1948 in Toulon. Claimant [REDACTED 4] indicated that he was born on 21 July 1921 in Mulhouse, France. Claimant [REDACTED 3] indicated that she was born on 1 January 1929 in Strasbourg.

Claimant [REDACTED 4] is representing his cousins, [REDACTED 5], and [REDACTED 6], who were both born on 30 January 1927 in Strasbourg. These parties are the children of [REDACTED]'s sister, [REDACTED].

Information Available in the Bank Records

Account Owner Marcel Klein

The Bank's records consist of a list of collective accounts as well as a printout from the Bank's database. According to these records, Account Owner Marcel Klein was Marcel Klein, who used an address in Geneva, Switzerland when opening his account. According to the Bank's

records, Account Owner Marcel Klein held an account numbered 31219, the type of which is not indicated. The account, whose opening date is not indicated, was transferred to a suspense account for dormant assets on 14 March 1947. The amount in the account on the date of its transfer was 1.20 Swiss Francs (“SF”). The account remains open in the Bank’s suspense account.

There is no evidence in the bank records that Account Owner Marcel Klein or his heirs closed the account and received the proceeds themselves.

Account Owner Sylvain Klein

The Bank’s records consist of an account-opening card, as well as a printout from the Bank’s database. According to these records, Account Owner Sylvain Klein was Sylvain Klein, a French citizen, who resided at Avenue Ermitage No. 9, Thonon, France.

The Bank’s records further indicate that a security (“*cautionnement*”) of SF 1,200.00 had been signed in favor of Account Owner Sylvain Klein by Mr. William Kündig, from the Bank’s Basel branch, and that Account Owner Sylvain Klein had been granted a loan denominated in Swiss Francs.

According to the Bank’s records, Account Owner Sylvain Klein held one time deposit account, which he opened on 31 October 1944, and which contained no assets as of 8 June 1949.

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process (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 five claims of the Claimants in one proceeding.

Identification of the Account Owners

Account Owner Marcel Klein

The Claimants’ relative’s name matches the published name of Account Owner Marcel Klein.

The Bank’s records indicate that Account Owner Marcel Klein provided the Bank with an address in Geneva, Switzerland. Nevertheless, the CRT notes that it is plausible that Account Owner Marcel Klein only used a temporary address in the same city as the branch of the Bank where the account was held.

In support of their claims, the Claimants submitted documents, including the birth and marriage certificates of Marcel Klein, providing independent verification that the person who is claimed to

be Account Owner Marcel Klein had the same name recorded in the Bank's records as the name of Account Owner Marcel Klein.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Marcel Klein, and indicates that his date of birth was 2 March 1886, his place of birth was Obernai, France, which matches the information about Account Owner Marcel Klein provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Finally, the CRT notes that the ICEP Investigation did not make a determination that the present Account Owner Marcel Klein is the same person as Marcel Klein, from Obernai, France, who was related to the power of attorney holders, Sylvain Klein, and Frau [REDACTED], whose names were published on the February 2001 list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). These accounts were awarded to the Claimants in a decision dated April 2003. However, the CRT notes that the account was held in the same branch of the same bank as other accounts held by both Account Owner Marcel Klein and Account Owner Sylvain Klein and awarded to the Claimants in the April 2003 decision. Given that both Account Owner Marcel Klein and Sylvain Klein held so many accounts at the same branch of the same bank, the CRT considers it more plausible that this account was held by the same Account Owner as the accounts addressed in that award than by any other account owner. Given these facts, the other claims to this account were disconfirmed as less plausible, and CRT concludes that the Claimants have plausibly identified Account Owner Marcel Klein.

Account Owner Sylvain Klein

The Claimants' relative's name and country of residence match the published name and country of residence of Account Owner Sylvain Klein. The CRT notes that the Claimants did not identify the city of Thonon, France. However, the Claimants indicated that their relative moved throughout France from 1939 to 1945, and therefore the CRT determines that it is plausible that the Claimants would not know the names of each city their relative moved to during the Second World War, and that the Claimants' failure to identify Account Owner Sylvain Klein's city of residence does not adversely affect the plausibility of their identification of Account Owner Sylvain Klein. In support of their claims, the Claimants submitted documents, including the birth certificate of Sylvain Klein, providing independent verification that the person who is claimed to be Account Owner Sylvain Klein had the same name and resided in the same country recorded in the Bank's records as the name and country of residence of Account Owner Sylvain Klein.

The CRT notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimants have plausibly identified Account Owner Sylvain Klein.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish and that they lived in

France during the Second World War. Furthermore, the Claimants stated that Account Owner Marcel Klein was arrested by the Nazis and deported to a concentration camp in 1944. The Claimants indicated that Account Owner Marcel Klein perished en route from the Buchenwald concentration camp to Auschwitz in April 1945. As indicated above, a person by the name of Marcel Klein is listed in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are siblings, have plausibly demonstrated that they are related to the Account Owners by submitting information and documents, demonstrating that Account Owner Marcel Klein is their maternal great-uncle and that Account Owner Sylvain Klein is their maternal grandfather. These documents include the birth certificates of Marcel Klein and Sylvain Klein; the marriage certificate of Marcel and [REDACTED]; the death certificates of [REDACTED], and their son, [REDACTED]; Sylvain Klein's widow's certificate of inheritance, indicating that their daughter and sole heir was [REDACTED]; the death certificate of [REDACTED]; and a certificate of inheritance, indicating that [REDACTED]'s heirs were her children, [REDACTED 1] and [REDACTED 2], née [REDACTED].

Claimant [REDACTED 4] and his widow, Claimant [REDACTED 3], have plausibly demonstrated that they are related to the Account Owners by submitting information and documents, demonstrating that the Account Owners were Claimant [REDACTED 4]'s maternal uncles and Claimant [REDACTED 3]'s uncles by marriage. These documents include the birth certificates of Marcel Klein, Sylvain Klein and their sister, [REDACTED]; Claimant [REDACTED 4]'s birth certificate, indicating that he was the son of [REDACTED], a certificate indicating that Claimant [REDACTED 4] died and that Claimant [REDACTED 3] is his widow and heir; the marriage certificate of Marcel and [REDACTED]; the death certificates of [REDACTED], and their son, [REDACTED].

Claimant [REDACTED 4] has plausibly demonstrated that represented parties [REDACTED 5] and [REDACTED 6] are related to the Account Owners by submitting specific biographical information, demonstrating that represented parties are the nephews by marriage of Account Owner Marcel Klein, and the relatives of Account Owner Sylvain Klein. These documents include Marcel and [REDACTED]'s marriage certificate, and the Claimants' family tree, indicating that [REDACTED]'s sister, [REDACTED], née [REDACTED], is the mother of the represented parties.

There is no information to indicate that the Account Owners have surviving heirs, other than the parties whom Claimant [REDACTED 4] is representing.

The Issue of Who Received the Proceeds

Account Owner Marcel Klein

The Bank's records indicate that the account remains open in the Bank's suspense account.

Account Owner Sylvain Klein

Given that Account Owner Sylvain Klein opened his time deposit account on 31 October 1944, following the Allies' invasion of France, and the recognition of the Provisional Government of the French Republic by the Allies on 23 October 1944,³ and that the account contained no assets as of 8 June 1949, the CRT concludes that Account Owner Sylvain Klein retained control over this account during the entire time of its existence and received the proceeds of the account himself.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 4]. First, their claims are admissible in accordance with the criteria contained in Article 23 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that Account Owner Marcel Klein was their maternal great-uncle and Claimant [REDACTED 4] has plausibly demonstrated that Account Owner Marcel Klein was his maternal uncle, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither Account Owner Marcel Klein, nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 4], as descendants of Account Owner Marcel Klein's parents, have a better entitlement to the account than Claimant [REDACTED 3] and represented parties [REDACTED 5] and [REDACTED 6], who are related to Account Owner Marcel Klein by marriage only.

Amount of the Award

In this case, the CRT is awarding one account of unknown type. The Bank's records indicate that the value of the account, as of 14 March 1947 was SF 1.20. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 45.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1947. Consequently, the adjusted balance of the account at issue is SF 46.20. Pursuant to Article 29 of the Rules, when the value of an account was less than SF 3,950.00, as is the case here, and in the absence of evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The present 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 49,375.00.

Division of the Award

According to Article 23(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

³ The liberation of France began on 6 June 1944. Five days following the liberation of Paris, on 30 August 1944, De Gaulle relocated the seat of the French provisional government from Algiers to Paris. On 15 September 1944, American, British, and French forces met and reorganized in liberated France for a projected assault on Germany. See <http://www.bartleby.com/67/1919.html> and <http://www.bartleby.com/67/2619.html>. The Provisional Government of the French Republic was officially recognized by the Allies on 23 October 1944.

descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. The CRT notes that Claimant [REDACTED 4] is the son of [REDACTED], née [REDACTED], (the sister of Account Owner Marcel Klein), and that Claimant [REDACTED 1] and Claimant [REDACTED 2] are the children of [REDACTED], who is the daughter of Sylvain Klein (the brother of Account Owner Marcel Klein). Accordingly, Claimant [REDACTED 4] is entitled to one-half of the total award amount, and Claimant [REDACTED 1] and Claimant [REDACTED 2] are together entitled to the other half of the total award amount, or one-fourth of the award amount each.

As noted above, Claimant [REDACTED 3] and represented parties [REDACTED 5] and [REDACTED 6] are not descendants of Account Owner Marcel Klein, nor are they descendants of Account Owner Marcel Klein's parents, and are therefore not entitled to any portion of this Award.

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
18 December 2008