

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Account of Frantisek Kleisny

Claim Number: 500852/AV

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Frantisek Kleisny (the “Account Owner”) at the Zurich 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 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 father, Frantisek (Franz) Kleisny (Klein), the son of [REDACTED] and [REDACTED], née [REDACTED], who was born on 1 November 1886 in Prague, Bohemia (today the Czech Republic), and was married to [REDACTED], née [REDACTED]. The Claimant specified that his parents had two children: [REDACTED], who was born on 4 September 1922 in Prague, and the Claimant. According to the Claimant, his father, who was Jewish, owned the *Klein & Co.* weaving factory, a business located in Warnsdorf, Czechoslovakia and Prague. The Claimant indicated that his father lived with his family at Kirchengasse 723 in Warnsdorf. The Claimant stated that in September 1938, just before Germany occupied the Sudetenland, his family fled in the middle of the night to Prague, where they lived on Charloty Masarykové. The Claimant further stated that after Germany occupied Bohemia on 15 March 1939, his father obtained travel papers and the family fled from Prague to Zagreb, Yugoslavia, on 17 March 1939. The Claimant indicated that his father’s factory in Czechoslovakia was aryanized and that his father was assessed flight tax (*Reichsfluchtsteuer*) of 320,000.00 Reichsmark (“RM”). The Claimant stated that his family lived on Boskoviceva ulica in Zagreb, until 1940, when they moved to Miodraga Davidovica in Belgrade, Yugoslavia. According to the Claimant, in March 1941, his father fled Belgrade to Ankara, Turkey, just before Germany invaded Yugoslavia. The Claimant stated that his father then went to Jerusalem, Palestine (now Israel), where he stayed until the end of the Second World War. The Claimant indicated that after the War, his father returned to Prague, where he

died on 16 December 1954. The Claimant further indicated that his mother died on 23 November 1974 in Prague, and that his sister died on 25 June 1983, also in Prague.

The Claimant submitted his birth certificate, indicating that his father was Franz Klein, and his birth and baptismal certificate, indicating that his father legally changed his name from Frantisek Klein to Frantisek Kleisny on 22 June 1933.¹ The Claimant indicated that he was born on 11 May 1924 in Zittau, Germany.

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owner was Frantisek Kleisny, who resided at Boskoviceva 36 in Zagreb, Yugoslavia. These records indicate that the Account Owner rented a safe deposit box, numbered S1176. These records further indicate that the last contact with the Account Owner was on 22 May 1939.

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") reported that the Bank considered the safe deposit box for inclusion in the survey of dormant accounts pursuant to the Swiss Federal Decree of 20 December 1962 (the "1962 Survey"), which required the registration of assets belonging to foreigners or stateless persons who had been or were presumed to have been victims of racial, religious, or political persecution. According to the records, the Bank did not report the safe deposit box because it found no indication of persecution.

The Bank's records indicate that the safe deposit box was forcibly opened by the Bank on 19 May 1964 to pay outstanding fees, and that it was found empty. There is no evidence in the Bank's records that the Account Owner or his heirs received the contents of the safe deposit box themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's street address in Zagreb, Yugoslavia, which matches unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his birth and baptismal certificate, 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 the name Frantisek Kleisny appears only once on the

¹ The CRT notes that the documents submitted by the Claimant identify his father as "Franz Klein" and "Frantisek Klein." The CRT further notes that Franz is the German cognate of the Czech name Frantisek.

February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution (the “ICEP List”). The CRT further 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 fled from the Sudetenland just before it was occupied by Germany, that he fled from Prague on 17 March 1939, shortly after it was occupied by Germany, and that he fled Yugoslavia just before it was occupied by Germany. The Claimant further stated that his father’s business was aryanized.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant’s father. These documents include the Claimant’s birth and baptismal certificate, indicating that his father was Frantisek Kleisny. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner fled from the Sudetenland to Prague in September 1938, that he fled from Prague to Zagreb on 17 March 1939, and that he fled from Yugoslavia to Turkey in March 1941; that the Account Owner resided in Czechoslovakia, a Communist country, after the Second World War; that there is no record of the payment of 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 Presumptions (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 father, and that relationship justifies 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 one safe deposit box. The Bank's records indicate that the safe deposit box was found empty in 1964. According to Article 29 of the Rules, if the amount in a safe deposit box was less than 1,240.00 Swiss Francs ("SF"), and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 1,240.00. The CRT finds it implausible that the Account Owner would have rented a safe deposit box and not have kept any assets in it. Further, it is unlikely that the Bank would have maintained the safe deposit box for 25 years (from 1939 to 1964) if it had not been able to collect fees for its maintenance. The CRT therefore determines that the value of the safe deposit box shall be SF 1,240.00. The current value of this amount 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. Consequently, the total award amount in this case is SF 15,500.00.

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
21 September 2005

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