

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]

and to Claimant [REDACTED 3]

in re Account of Max Lengsfelder

Claim Numbers: 150143/HB; 150144/HB; 150145/HB

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2] ([REDACTED]) (“Claimant [REDACTED 2]”), and [REDACTED 3], née [REDACTED] ([REDACTED]) (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published account of Max Lengsfelder (the “Account Owner”), over which Olga Lengsfelder (the “Power of Attorney Holder”) held power of attorney, 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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants each submitted Claim Forms indicating that they are siblings and identifying the Account Owner as their paternal grandfather, Dr. Med. Max (Maximilian) Lengsfelder, who was born on 27 November 1877 in Austria-Hungary (later Czechoslovakia), and was married to Olga Lengsfelder, née Stern, who was born on 1 August 1882. According to the Claimants, their grandparents, who were Jewish, resided in Kratzau (Chrastava), Czechoslovakia (now the Czech Republic), where their grandfather was a medical doctor and owned a medical clinic, a dental clinic, and several buildings. The Claimants indicated that their grandparents had two children: [REDACTED], who was born in 1905 in Kratzau and died childless in 1928, and [REDACTED] (the Claimants’ father), who was born on 22 October 1914 in Kratzau. The Claimants further indicated that their grandparents also lived in Reichenberg (Liberec), Czechoslovakia (now the Czech Republic), and later at Am Herd 262 in Prague 77, Czechoslovakia (now the Czech Republic), for approximately two years. The Claimants stated that their grandparents were deported on 28 April 1942 from Prague to Theresienstadt, and subsequently on 18 December

1943 to Auschwitz, where they perished. The Claimants indicated that their father died in 1990 in Safed, Israel.

In support of their claims, together the Claimants submitted documents, including: (1) their parents' marriage certificate, dated 2 November 1942 in Haifa, Palestine (now Israel), indicating that [REDACTED] was the child of Max and Olga Lengsfelder; (2) Claimant [REDACTED 3]'s birth certificate, dated 25 July 1979 in Jerusalem, Israel, indicating that [REDACTED 3] was born on 25 April 1945 in Palestine, that she is Jewish, and that her father's name is [REDACTED]; (3) their father's identity card, dated 3 March 1942 in Palestine, indicating that [REDACTED] was Jewish; (4) Claimant [REDACTED 3]'s name change certificate, dated 6 January 1981 by the Ministry of Interior of the State of Israel, indicating that [REDACTED 3]'s surname was changed to [REDACTED] on 14 December 1949 in Israel; (5) their father's death certificate, dated 16 May 1990 in Safed, indicating that [REDACTED] was born on 22 October 1914, that he was Jewish, that his father's name was Max, and that he died on 11 April 1990; (6) an extract from a registry of the Israeli Ministry of the Interior regarding their father, dated 13 March 2006 in Kfar Saba, Israel, indicating that [REDACTED] was born in Czechoslovakia on 22 October 1914, that his parents' names were Max and Olga, and that he was Jewish; (7) Claimant [REDACTED 3]'s Certificate of Registration of Birth, dated 17 May 1945 in Nazareth, Israel, indicating that [REDACTED 3] was born on 25 April 1945, and that her father's name was [REDACTED 3]; (8) Claimant [REDACTED 3]'s marriage certificate, dated 24 September 1979 in London, England, indicating that [REDACTED 3] was married to [REDACTED] and that her father's name was [REDACTED]; (9) Claimant [REDACTED 2]'s identity card, indicating that [REDACTED 2] was born on 27 July 1943 in Israel, that his father's name was [REDACTED], and that his surname was changed from [REDACTED]; (10) an extract from a list of Jews who were deported to Terezin, published by the Archive of Terezin, identifying Dr. Med. Max Lengsfelder, who was born on 27 November 1877, and Olga Lengsfelder, who was born on 1 August 1882; (11) a letter directed from the Claimants' grandfather to their father, issued by way of the German Red Cross in Berlin, Germany, on 16 February 1942, indicating that *M. Dr.* Max Lengsfelder was in Prague, and that [REDACTED] resided in Israel; and (12) a declaration written by their father, dated 9 July 1967 in Tel Aviv, Israel, indicating that [REDACTED] was born on 20 October 1914, that his parents were Maximilian and Olga Lengsfelder, that his family resided in Kratzau and Reichenberg, and that his father was a dentist and physician.

Claimant [REDACTED 2] indicated that he was born on 27 July 1943 in Palestine (today Israel). Claimant [REDACTED 3] indicated that she was born on 25 April 1945 in Afula, Palestine (today Israel). Claimant [REDACTED 1] indicated that she was born on 30 October 1950 in Afula.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was *M. U. Dr.* (Dr. Med.) Max Lengsfelder and the Power of Attorney Holder was *Frau* (Mrs.) Olga Lengsfelder, both of whom resided in Kratzau, Czechoslovakia (now the Czech Republic).

The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, which was opened on 16 June 1931. The Bank's records do not indicate the value of this account.

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. These auditors indicated that there was no evidence of activity on this account after 1945.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner and the Power of Attorney Holder. The Claimants' grandparents' name, and city and country of residence match the published names and city and country of residence of the Account Owner, and the published name of the Power of Attorney Holder. The Claimants identified the Account Owner's profession and title, the city and country of residence of the Power of Attorney Holder, as well as the relationship between the Account Owner and the Power of Attorney Holder, which match unpublished information about the Account Owner contained in the Bank's records.

In support of their claim, together the Claimants submitted documents, including their parents' marriage certificate, their father's death certificate, an extract from a registry of the Israeli Ministry of the Interior, an extract from a list of Jews deported to Terezin, a letter from the Claimants' grandfather, and a declaration written by their father, providing independent verification that the person who is claimed to be the Account Owner had the same name, profession, and title and resided in the same town recorded in the Bank's records as the professional title, name and city of residence of the Account Owner, and that the person who is claimed to be the Power of Attorney Holder had the same name recorded in the Bank's records as the name of the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Lengsfelder, and indicates that his date of birth was 27 November 1877 and that he was a medical doctor. This information matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Max Lengsfelder appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT notes that there are no other claims to this account.

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. The Claimants stated that the Account Owner was Jewish, and that he and his wife were deported to Theresienstadt, and subsequently to Auschwitz, where they perished. As noted above, a person named Max Lengsfelder was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' grandfather. These documents include: (1) their father's certificate of marriage, death certificate, a written declaration, a letter from their grandfather to their father, and an extract from the Israeli Ministry of the interior, indicating that [REDACTED]'s parents were the Account Owner and the Power of Attorney Holder; (2) Claimant [REDACTED 3]'s birth certificate, birth registry, name change certificate, and marriage certificate, indicating that [REDACTED] was Claimant [REDACTED 3]'s father; and (3) Claimant [REDACTED 2]'s identity card, indicating that his previous surname was [REDACTED] and that his father's name was [REDACTED].¹

The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder perished in Auschwitz in 1943; 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 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) 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, the Power of Attorney Holder, or their 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 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 paternal grandfather

¹ The CRT notes that the Claimants' claim forms all indicate that Claimant [REDACTED 1] is the sister of Claimant [REDACTED 3] and Claimant [REDACTED 2].

and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account, the type of which is not indicated. 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 ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 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 49,375.00.

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. Accordingly, the Claimants are each entitled to one-third 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
29 May 2007