

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]
and [REDACTED 3]

and to Claimants [REDACTED 4]

and [REDACTED 5]

in re Accounts of Leopold Lindemann

Claim Numbers: 203508/SB; 219914/SB; 220278/SB¹

Award Amount: 42,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 4], née [REDACTED] (“Claimant [REDACTED 2]”) and [REDACTED 5] (“Claimant [REDACTED 5]”) (together “the Claimants”) to the published accounts of Leopold Lindemann (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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal grandfather, Leopold Lindemann, who was born on 2 April 1893 in Berlin, Germany, and was married to [REDACTED] in Berlin. Claimant [REDACTED 1] stated that his grandfather, who was Jewish, was a businessman in Berlin until 1939, when the Nazis forced him to perform labor at a Siemens factory. Claimant [REDACTED 1] further stated that his grandfather had three children: [REDACTED] (Claimant [REDACTED 1]’s father); [REDACTED]; and [REDACTED]. Claimant [REDACTED 1] stated that after the Second

¹ Claimant [REDACTED 5] submitted four additional claims to the accounts of [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], which are registered under the Claim Numbers 219249, 220277, 500976 and 500991, respectively. The CRT will treat the claims to these accounts in separate decisions.

World War his grandfather immigrated to Sydney, Australia where he died on 1 March 1955. In support of his claim, Claimant [REDACTED 1] submitted a copy of his passport which indicates that his family name is [REDACTED], a detailed family history, including the addresses of his grandfather's residence in Berlin, and a family tree.

Claimant [REDACTED 1] indicated that he was born on 2 July 1956 in Sydney, Australia. Claimant [REDACTED 1] is representing his mother, [REDACTED 2], née [REDACTED], who was born on 3 January 1929 in Czechoslovakia, and his brother, [REDACTED 3], who was born on 10 September 1959 in Sydney, Australia.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form and an Initial Questionnaire ("IQ") identifying the Account Owner as her father-in-law, Leopold Lindemann, who was born on 3 October 1884 in Koenigsberg, Germany, and married [REDACTED] on 17 December 1916 in Berlin. Claimant [REDACTED 2] stated that her father-in-law, who was Jewish, was a company director and had two children, [REDACTED] (Claimant [REDACTED 2]'s late husband) and [REDACTED], who died in Berlin in 1930. Claimant [REDACTED 2] further stated that her father-in-law fled Germany for England in 1938, and that he died in Manchester, England, on 10 February 1946. In support of her claim, Claimant [REDACTED 2] submitted Leopold Lindemann's will, dated 5 October 1945, which names his wife, [REDACTED], and his son [REDACTED] as beneficiaries; [REDACTED]'s will, dated 18 October 1948, which names her son, [REDACTED], as a beneficiary; and [REDACTED]'s will, dated 17 February 1979, which names his wife, Claimant [REDACTED 2], as his sole beneficiary.

Claimant [REDACTED 2] indicated that she was born on 3 August 1919 in Manchester.

Claimant [REDACTED 2] previously submitted two IQs with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED].²

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted a Claim Form identifying the Account Owner as her father, Leopold Lindemann, who was born on 4 February 1900 in Strasbourg, France and was married to Else Mayer on 10 July 1930 in Worms, Germany. Claimant [REDACTED 5] stated that her father, who was Jewish, was a banker and resided in Berlin until 1933, when he fled Germany to Strasbourg. Claimant [REDACTED 5] further stated that her father moved to Vichy, France, in 1939 and that he joined the French Foreign Legion, returning to Vichy in 1942. Claimant [REDACTED 5] stated that her father died on 7 May 1997 in Chevreuse, France. In support of

² 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.

her claim, Claimant [REDACTED 5] submitted her own birth certificate, which indicates that her father was Leopold Lindemann, formerly of Berlin, Germany.

Claimant [REDACTED 5] indicated that she was born on 22 May 1934 in Schiltigheim, France.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Leopold Lindemann, who resided in Berlin, Germany. The Bank's record indicates that the Account Owner held a demand deposit account and a safe deposit box. The Bank's record indicates that the demand deposit account was closed on 20 July 1933, and that the safe deposit box was closed on 22 July 1933. The amount in the demand deposit account and the value of the contents of safe deposit box on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the demand deposit account and safe deposit box and received the proceeds themselves.

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. The name and country of residence of Claimant [REDACTED 1]'s grandfather, Claimant [REDACTED 2]'s father-in-law and Claimant [REDACTED 5]'s father match the published name and country of residence of the Account Owner. Each of the Claimants also identified their relatives' city of residence as Berlin, which matches unpublished information about the Account Owner contained in the Bank's record. In support of their claims, Claimant [REDACTED 2] submitted a copy of her father-in-law's will and Claimant [REDACTED 5] submitted her birth certificate, which indicates that her father was Leopold Lindemann, formerly of Berlin, providing independent verification that the person who Claimant [REDACTED 2] and Claimant [REDACTED 5] claim to be the Account Owner had the same name and city of residence recorded in the Bank's record as the name and city of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 2] also filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Leopold Lindemann, prior to the publication in February 2001 of the 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"). This indicates that Claimant [REDACTED 2] has based her present claim not simply on

the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2].

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2]'s relative and Claimant [REDACTED 5]'s relative are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 5] 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. The Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner was forced to perform slave labor. Claimant [REDACTED 2] stated that the Account Owner fled Germany for England, and Claimant [REDACTED 5] stated that the Account Owner fled Germany for France.

The Claimants' Relationship 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 Claimant [REDACTED 1]'s grandfather, Claimant [REDACTED 2]'s father-in-law and Claimant [REDACTED 5]'s father. Claimant [REDACTED 2] submitted Leopold Lindemann's will, which names his wife, [REDACTED], and his son [REDACTED] as beneficiaries, and [REDACTED]'s will, which names his wife, Claimant [REDACTED 2], as the sole beneficiary. Claimant [REDACTED 5] submitted her birth certificate which indicates that her father's name was Leopold Lindemann. The CRT notes that Claimant [REDACTED 1] submitted a detailed family tree and history, showing his relationship to the Account Owner, which supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs other than the parties whom Claimant [REDACTED 1] is representing.

The Issue of Who Received the Proceeds

The Bank's record indicates that the demand deposit account and the safe deposit box were closed in July 1933. Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that the Account Owner fled Germany prior

to 22 July 1933, and would not have been able to repatriate his accounts to Germany without losing ultimate control over the proceeds; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his demand deposit account and safe deposit box 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,³ the CRT concludes that it is plausible that the demand deposit account and safe deposit box 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 5] have plausibly demonstrated that the Account Owner was their grandfather, father-in-law and father, respectively, and those relationships justify 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 accounts.

Amount of the Award

In this case, the Account Owner held a demand deposit account and a safe deposit box. 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 demand deposit account was 2,140.00 Swiss Francs ("SF") and the average value of a safe deposit box was SF1,240.00. Thus, the total 1945 average value of the accounts at issue is SF 3,380.00. The current value of these amounts 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 42,250.00.

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, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1], Claimant

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

[REDACTED 2] and Claimant [REDACTED 5] are each entitled to one-third of the total award amount.

With respect to Claimant [REDACTED 1]'s share of the award, the CRT notes that Claimant [REDACTED 1] represents his mother, [REDACTED 2], and brother, [REDACTED 3]. 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. The CRT notes that Claimant [REDACTED 1] and his brother are direct descendants of the Account Owner and therefore have a better entitlement to the accounts than their mother, [REDACTED 2], who is only related to the Account Owner by marriage. Accordingly, Claimant [REDACTED 1] and his brother are each entitled to one-sixth 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
31 March 2005