

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of Stefanie Gross, [REDACTED] and [REDACTED]

in re Accounts of Stefanie Lindenbaum and Leopold (Leo) Lindenbaum

Claim Number: 600028/ZP^{1,2}

Award Amount: 80,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Stefanie Lindenbaum (“Account Owner Stefanie Lindenbaum”) and Leopold Lindenbaum (“Account Owner Leo Lindenbaum”) (together the “Account Owners”) at the Zurich branch of the [REDACTED I] (“Bank I”) and the accounts of Dr. Leo Lindenbaum at the [REDACTED II] (“Bank II”) (Bank I and Bank II will be collectively referred to as the “Banks”).

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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owners as his mother, Stefanie (Stefania or Stephanie) Gross, née Lindenbaum, and his maternal grandfather, Leopold (Leo) Pinhas Lindenbaum. The Claimant stated that his grandfather was born on 24 July or August 1880 in Budapest, Hungary, and was married to [REDACTED], née [REDACTED], on 21 May 1907. The Claimant further stated that his grandparents had three children: Stefanie Gross, née Lindenbaum (the Claimant’s mother) who was born on 9 October 1911 in Budapest; [REDACTED], née [REDACTED] (the Claimant’s aunt), who was born on 18 April 1908; and [REDACTED] (the Claimant’s uncle), who was born on 25 September 1919 in Baden, Austria (and who later changed his last name to [REDACTED]). The Claimant stated that his uncle was married to [REDACTED]. The Claimant also stated that his uncle, [REDACTED], died on 13 February 1996 in Montreal, Canada.

¹ The Claimant submitted an additional claim to the accounts of his parents, Stefanie Gross and [REDACTED], which is registered under the Claim Number 600028. The CRT will treat the claim to these accounts in a separate decision.

² The Claimant submitted a claim, numbered B-00966, on 13 May 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600028.

The Claimant stated that his grandfather, who was Jewish, was an engineer who used the titles “Dipl. Ing.” and “Dr.” interchangeably. According to the Claimant, his grandfather resided from 1908 through 1912 at 93 Kiraj Utká, in Budapest, from 1912-1942 at Judenplatz 2 in Vienna, Austria, and from 1942 through 1944 at Furstenstrasse 49 in Lemberg, Poland (currently Ukraine), in the Lodz Ghetto. The Claimant further stated that his grandfather was eventually transported to either Bergen-Belsen or Laufen, and that his grandfather perished in 1943 or 1944 at Bergen-Belsen. According to the Claimant, his grandfather was an engineer who maintained contacts in Switzerland and owned several Swiss bank accounts. The Claimant explained that his mother moved to Paris, France in the early 1930s, and that his parents were married there on 19 June 1934. The Claimant indicated that upon their marriage, his parents moved to an apartment at 41 Boulevard Lannes, Paris XVI. The Claimant further explained that notwithstanding a period during the Second World War when his parents, who were Jewish, were in hiding in the southwest of France, his mother has resided at this address since 1934.

In support of his claim, the Claimant submitted various documents, including a power of attorney agreement, dated 15 October 1996, signed by his parents; his mother’s birth certificate indicating that she was born in Budapest on 9 October 1911 to [REDACTED] and [REDACTED], née [REDACTED]; and a document issued by the Austrian authorities, dated 20 January 1948, which identifies the Claimant’s grandfather, Leopold Lindenbaum, and Stefanie Lindenbaum Gross, [REDACTED] and [REDACTED] ([REDACTED]) as his heirs (*Einantwortungsurkunde*).

Information Available in the Banks’ Records

The Claimant and the HCPO submitted to the CRT various bank documents pertaining to the Swiss bank accounts of Leopold Lindenbaum. Specifically, the Claimant and the HCPO submitted an account opening contract dated 19 January 1933 between Bank I and the Account Owners, as well as an account card provided by the Bank to the HCPO upon request in March 1999. According to these records, the Account Owners were *Dipl. Ing.* (engineer) Leopold Lindenbaum and his daughter *Fräulein* (Miss) Stefanie Lindenbaum of Budapest. Bank I’s records indicate that the Account Owners held a numbered demand deposit account, numbered 1308, which was opened on 19 January 1933. These records do not show when this account was closed, or to whom it was paid, nor do these records indicate the value of this account.

The Claimant and the HCPO also submitted a letter dated 27 August 1999 from Bank II to the HCPO with which Bank II provided an account card pertaining to the accounts of Dr. Leo Lindenbaum. According to this record, Account Owner Leo Lindenbaum was Dr. Leo Lindenbaum of Drohobycz, Poland, and the account card includes a temporary address in Vienna at Gusshausstrasse 16. According to this document, Account Owner Leo Lindenbaum held two demand deposit accounts, one in Swiss Francs numbered 35666, and another one in an unspecified currency, numbered 24977. However, in the 27 August 1999 letter from Bank II to the HCPO, Bank II indicates that Account Owner Leo Lindenbaum held one of the demand deposit accounts in French Francs. Bank II further indicated that this account was opened in 1933 and closed in 1949 with a balance of 180.00 French Francs.³

³ In the letter of 27 August 1999, Bank II indicated that the balance of the account was 22,9683.00 French Francs at

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Leopold Lindenbaum.

The Claimant indicated that he was born on 5 April 1938 in Paris. The Claimant is representing his mother, Stefanie Gross, and his aunts, [REDACTED], née [REDACTED], and [REDACTED] in these proceedings.

The auditors who carried out the investigation of these 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 report accounts owned by Leopold (Leo) Lindenbaum or Stefanie Lindenbaum.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime 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 Leopold Lindenbaum, numbered 33845. According to this record, Leopold Lindenbaum, who lived in Drohobycz, Poland, was born on 24 August 1880 and was married to [REDACTED], nee [REDACTED], who was Jewish. The record indicates that Leopold Lindenbaum was a “person of private means” (*Privatier*) since 1930. The record also indicates that Leopold Lindenbaum owned two pieces of property in Vienna, one of which was located at Judenplatz 2 in the first district of the city and another, which was located at Grohgasse 11 in the fifth district of the city. The record, which was signed by Leopold Lindenbaum on 27 June 1938 in Drohobycz, Poland, makes no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant and the HCPO provided documentation from Bank I and Bank II, which match the Claimant’s mother’s and grandfather’s names, his grandfather’s title, and indicate the relationship between the Account Owners. In addition, the Claimant identified information about his grandfather’s address and place of residence, which matches information about Account Owner Leo Lindenbaum contained in the Austrian State Archives. Furthermore, the CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Leopold Pinhas Lindenbaum. This indicates that the Claimant had reason to believe that his relative owned a Swiss bank account. Finally, the CRT also notes that the other claims to the accounts of Leo Lindenbaum were

the end of 1933; 3,791.00 French Francs at the end of 1934; 1,206.00 French Francs at the end of 1935; 195.00 French Francs at the end of 1936; 191.50 French Francs from the end of 1937 to the end of 1939; and 180.00 French Francs from the end of 1940 to the end of 1948.

disconfirmed because these claimants provided a different country of residence than the country of residence of Account Owner Leo Lindenbaum.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that during the Second World War his mother fled Paris and was forced to hide in the southwest of France. The Claimant further stated that his grandfather was killed at the Bergen-Belsen concentration camp in 1943 or 1944.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners. The Claimant is representing his mother, Account Owner Stefanie Lindenbaum, and his aunts, [REDACTED] and [REDACTED]. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the demand deposit account numbered 1308 held jointly by the Account Owners at Bank I, and the demand deposit account numbered 35666 held by Account Owner Leo Lindenbaum at Bank II, the records submitted by the Claimant and the HCPO do not indicate if or when these accounts were closed and there is no evidence in the information provided by the Claimant that indicate the account proceeds were paid to the Account Owners or their heirs. Given that both Account Owners were Jewish; that Account Owner Leo Lindenbaum lived in Austria during the *Anschluss* and eventually died in a concentration camp in 1943 or 1944; that the Nazis had, at this time, launched a major effort to confiscate the assets of the Jewish residents of Austria and that the CRT has found that numerous such confiscations of Swiss bank accounts occurred immediately following the *Anschluss*; that Account Owner Stefanie Lindenbaum hid in southwestern France to avoid Nazi persecution during the War; that there is no record of payment to the Account Owners and their heirs; that the Account Owners and their heirs would not have been able to obtain information about the accounts after the Second World War from the Banks due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as contained in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs.

With regard to the demand deposit account numbered 24977 held by Account Owner Leo Lindenbaum at Bank II, the CRT concludes that this account is the same as the account described in the 27 August 1999 letter from Bank II to the HCPO as having been closed in 1949 with a balance of 180.00 French Francs. Given that this account was closed with a balance after Account Owner Leo Lindenbaum's death in a concentration camp in 1943 or 1944; that Account Owner Leo Lindenbaum, who was Jewish, lived in Vienna at the time of the *Anschluss*; that the Nazis had, at this time, launched a major effort to confiscate the assets of the Jewish residents of

Austria; that the CRT has found that numerous such confiscations of Swiss bank accounts occurred immediately following the *Anschluss*; that Account Owner Leo Lindenbaum was deported to a concentration camp and died there in 1943 or 1944; that there is no record of payment to Account Owner Leo Lindenbaum; that Account Owner Leo Lindenbaum's heirs would not have been able to obtain information about his account after the Second World War from Bank II 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 contained 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 Account Owner Leo Lindenbaum 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 Owners were his mother and grandfather, respectively, and that he is representing his mother, Account Owner Stefanie Lindenbaum, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners jointly held one demand deposit account at Bank I, and Account Owner Leo Lindenbaum held two demand deposit accounts at Bank II.

With regard to the demand deposit account held jointly by the Account Owners at Bank I, 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 a demand deposit account was 2,140.00 Swiss Francs. 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 an amount of 26,750.00 Swiss Francs.

With regard to the demand deposit account number 35666 held by Account Owner Leo Lindenbaum at Bank II, 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 a demand deposit account was 2,140.00 Swiss Francs. 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 an amount of 26,750.00 Swiss Francs.

With regard to the demand deposit account number 24977 held by Account Owner Leo Lindenbaum at Bank II, the record provided by the Claimant and the HCPO indicates that the value of the account was 180.00 French Francs in 1949, which was the equivalent of 16.96 Swiss Francs.⁴ According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. 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, to produce an amount of 26,750.00 Swiss Francs.

Thus, the total award amount is 80,250.00 Swiss Francs.

Division of the Award

According to Article 25(1) of the Rules, if an Account is a Joint Account and claimants related to each of the Account Owners have submitted claims to the Account, it shall be presumed that each Account Owner was the owner of an equal share of the Account. This rule shall apply even if only one of the Account Owners is still alive. Furthermore, according to Article 23 (1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. According to Article 23(1)(f), if the child of the Account Owner is deceased, that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner for the purposes of this Article.

With regard to the demand deposit account numbered 1308 held jointly by Account Owners Leo Lindenbaum and Stefanie Lindenbaum, as one of the original joint account owners, Stefanie Lindenbaum shall receive one-half of the award amount for this account. She shall also receive an additional one-third of Account Owner Leo Lindenbaum's share of the account (or one-sixth of the total amount for this account), as the daughter of Account Owner Leo Lindenbaum. [REDACTED], as the daughter of Account Owner Leo Lindenbaum, shall receive one-third of Account Owner Leo Lindenbaum's share of the account (or one-sixth of the total amount for this account). [REDACTED], as the wife of Account Owner Leo Lindenbaum's deceased son [REDACTED] shall also receive one-third of Account Owner Leo Lindenbaum's share of the account (or one-sixth of the total amount for this account).

With regard to the two demand deposit accounts held by Account Owner Leo Lindenbaum, Stefanie Lindenbaum (as the daughter of Account Owner Leo Lindenbaum), [REDACTED] (as the daughter of Account Owner Leo Lindenbaum), and [REDACTED] (as the wife of Account Owner Leo Lindenbaum's deceased son [REDACTED]) shall each receive one-third of the award amount for these two accounts.

Consequently, Stefanie Lindenbaum shall receive a total amount of 35,666.66 Swiss Francs, [REDACTED] shall receive a total amount of 22,291.66 Swiss Francs, and [REDACTED] shall receive a total amount of 22,291.66 Swiss Francs. The Claimant is not entitled to an award in this case.

⁴ In calculating this amount, the CRT used official exchange rates.

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
20 May 2004