

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Rudolph Linz

Claim Number: 203956/UM

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the account of [REDACTED], and to the published accounts of Frieda Falk, Fritz Falk, Ida Linz and Rudolph Linz.¹ This Award is to the published accounts of Rudolph Linz (the "Account Owner"), over which Ida Linz held power of attorney (the "Power of Attorney Holder"), at the Basel branch of the [REDACTED] (the "Bank").²

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 maternal uncle, Rudolph Linz. In a letter to the CRT dated 5 June 2002, the Claimant stated that his uncle was one of two children of [REDACTED] and [REDACTED], and that his mother, [REDACTED], née [REDACTED], was the other child. The Claimant further stated that his uncle, who was Jewish, resided in Frankfurt am Main, Germany. During a telephone conversation with the CRT on 4 April 2003, the Claimant stated that he believed that his uncle was never married. Moreover, during a subsequent telephone conversation with the CRT on 27 April 2004, the Claimant added that his uncle resided in Frankfurt am Main during the 1920s and 1930s, but

¹ The CRT did not locate an account belonging to [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"). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be based upon the information provided by the Claimant or upon information from other sources. In addition, the CRT will treat the claims to the accounts of Frieda Falk, Fritz Falk and Ida Linz in separate decisions.

² The CRT notes that on the February 2001 published list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP list"), Rudolph Linz is indicated as having one account. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of two accounts.

could not identify his uncle's profession. In addition, the Claimant indicated that he fled from Frankfurt am Main to Luxembourg with his parents in 1933, when his father was unable to find work after the Nazis came to power. The Claimant stated that he believed his uncle remained in Frankfurt am Main after his family's departure, and indicated that he later learned of his uncle's death. The Claimant was unable to provide the date of his uncle's death, and knew no details regarding the circumstances of his death. In a telephone conversation with the CRT on 4 April 2003, the Claimant also stated that he believed that Ida Linz was a relative of his and that she lived in Germany, but that he was unable to provide any other information about her. The Claimant submitted his birth certificate, which identifies his mother as [REDACTED], née [REDACTED], and indicates that his parents resided in Frankfurt am Main. The Claimant indicated that he was born on 6 December 1922 in Frankfurt am Main.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and a printout from the Bank's database. According to these records, the Account Owner was Dr. Rudolph Linz, who resided in Frankfurt am Main, Germany, and the Power of Attorney Holder was Ida Linz, née Adler. 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") indicated that the Power of Attorney Holder also resided in Frankfurt am Main.

The Bank's records indicate that the Account Owner held a demand deposit account and a custody account, both numbered 36118, which were opened on 4 October 1930. The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts. The auditors who carried out the the ICEP Investigation did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner. In support of his claim, the Claimant submitted documents, including his birth certificate, indicating that his mother's last name was Linz, and that his family resided in Frankfurt am Main, Germany, providing independent verification that the Claimant's family had the same last name and resided in the same city of residence as that of the Account Owner. The CRT notes that the Claimant was unable to identify the Account Owner's, or his own, connection to the Power of Attorney Holder. However, the CRT further notes that, according to the Claimant, he fled Germany when he was eleven years old, making it unlikely that he would possess extensive information regarding his uncle or his extended family. In addition, the CRT notes that the name Rudolph Linz 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 "ICEP List"). Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants claimed the accounts based on the name of the Power of Attorney Holder, but provided different maiden names and different countries of residence than the maiden name and country of residence of the Power of Attorney Holder. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Target 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, and that he believed that he remained in Nazi Germany after the Claimant's family fled to Luxembourg in 1933. Moreover, the Claimant has made a plausible showing that the Account Owner's sister was a Victim of Nazi Persecution. The Claimant stated that the Account Owner's sister (the Claimant's mother) was forced to flee to Luxembourg with her family after her husband was unable to work under the Nazi regime.

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 maternal uncle. These documents include a copy of the Claimant's birth certificate, which provides independent verification that the Claimant's relatives bore the last name Linz and that they resided in Frankfurt am Main, Germany. As noted above, the CRT recognizes that the circumstances of the Claimant's departure from Germany make it unlikely that the Claimant would possess extensive information or documentation regarding his uncle. 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 remained in Nazi Germany after his relatives fled the country in 1933; that there is no record of the payment of the Account Owner's accounts to him, nor any record of the dates of closure of the accounts; that the Account Owner and his heirs would not have been able to obtain information about his accounts 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 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 maternal uncle, 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 accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. 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 ("SF"), and the average value of a custody account was SF 13,000.00. Thus, the 1945 total average value of the accounts at issue is SF 15,140.00. 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 189,250.00.

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
18 November 2004