

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Steven George Mandowsky
also acting on behalf of Susana Mandowsky

in re Account of Kurt Mandowsky

Claim Number: 213227/MBC¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Steven George Mandowsky (the “Claimant”) to the published account of Kurt Mandowsky (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his great-grandfather, Kurt Mandowsky, who was born in Beuthen, Germany (today Bytom, Poland), and was married to Amalia Mandowsky. The Claimant stated that his great-grandfather, who was Jewish, was a businessman, and that he had businesses in various European countries. The Claimant stated that his relative resided for some time in Rosberg, Germany, but spent the greater part of his life in Beuthen. The Claimant was unable to provide information about his great-grandfather's fate and circumstances during the Second World War.

The Claimant stated that his father, Ludwig Mandowsky, who was born on 26 February 1924 in Beuthen, died on 2 March 2000 in Sao Paulo, Brazil, and that his grandfather, Erich Mandowsky, was born on 14 April 1893 in Rosberg. The Claimant indicated that he was born in Sao Paulo on 27 May 1956. The Claimant represents his sister, Susana Mandowsky, who was born on 9 March 1959, also in Sao Paulo.

¹ The Claimant submitted additional claim to the account of Ernst Bikart, which is registered under the Claim Number 213226. The CRT will treat the claim to this account in a separate decision.

Information Available in the Bank's Records

The Bank's records consist of a receipt of general terms and conditions applying to custody accounts, a form indicating the address to which future correspondence should be sent, and a printout from the Bank's database. According to these records, the Account Owner was Dr. Kurt Mandowsky, who resided at Eichendorfstrasse 20 in Beuthen O/S (*Oberschlesien* - Upper Silesia), Germany. The Bank's records indicate that the Account Owner held one custody account, numbered 37065, which was opened on 17 November 1932.

The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records 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. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-grandfather's name and country of residence match the published name and country of residence of the Account Owner. In addition, the CRT notes that the list of accounts published in February 2001 determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List") identified the city of residence of the Account Owner as Benthen, Germany. However, the Bank's records indicate that the Account Owner's city of residence was actually Beuthen, Germany, which matches the Claimant's great-grandfather's city of residence. The CRT notes that the name Kurt Mandowsky 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. Furthermore, the CRT notes that there are no other claims to this account. 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 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, and that he lived in Nazi Germany.

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, demonstrating that the Account Owner was the Claimant's great-grandfather. The CRT further notes that the Claimant correctly identified the city of residence of the Account Owner as contained in the Bank's records, despite the fact the city of residence was erroneously published on the ICEP List. The CRT further notes that the Claimant submitted his Brazilian identification card, which indicates that he shares the same family name as the Account Owner. There is no information to indicate that the Account Owner has surviving heirs other than the Claimant's sister, whom the Claimant represents.

The Issue of Who Received the Proceeds

Given 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 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 great-grandfather, and that relationship justifies an Award. Finally, 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 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 custody account was 13,000.00 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 162,500.00.

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. In this case, the Claimant is representing Susana Mandowsky, his sister. Accordingly, the Claimant and his sister are each entitled to one-half of the total Award amount.

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