

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], [REDACTED 3],
[REDACTED 4], and [REDACTED 5]

in re Accounts of *Nachlass C. L. Netter*

Claim Number: 500883/AC

Award Amount: 304,850.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of *Nachlass C. L. Netter* (the “Account Owner”) over which Julius Seligsohn-Netter, Julius L. Seligsohn, and Ludwig Priebsch (the “Power of Attorney Holders”) held power of attorney at the Zurich branch of the [REDACTED] (the “Bank”).¹

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 great-great-grandfather, Dr. Carl Leopold Netter, who was born on 29 January 1864 in Bühl, Germany, and was married to [REDACTED]. In his Claim Form and in a telephone conversation with the CRT on 31 December 2004, the Claimant indicated that his great-great-grandfather was Jewish, that he was trained as a lawyer, and that he had a steel business in Berlin, Germany, called *Wolf Netter & Jacobi*, in which his son-in-law, Dr. Julius Seligsohn-Netter, who also was Jewish, was a partner. According to information provided by the Claimant, his great-great-grandfather was a prominent man in his community: he was a board member of his synagogue, and he was a *Kommerzienrat* (councilor of commerce) and *Handelsrichter* (commercial judge). The Claimant explained that Julius Seligsohn-Netter, who was trained as a lawyer, married the only child of Carl Leopold Netter, [REDACTED], on 1 September 1912 in Berlin. The Claimant indicated that his great-grandfather, Julius Seligsohn-Netter, served as the managing director of his father-

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution, C.L. Netter is indicated as having two accounts. Upon careful review, the CRT concludes that these accounts were in fact held by the Estate of C.L. Netter.

in-law's firm, and that Carl Leopold Netter passed away on 14 July 1922 in Baden-Baden, Germany. According to information provided by the Claimant, Julius Seligsohn-Netter's father, [REDACTED], had a brother named [REDACTED]. The Claimant explained that [REDACTED]'s son, Julius L. Seligsohn, brought his family to safety in England in 1938 or 1939, then returned to Germany to help other Jewish families, and was deported by the Nazis near the end of the Second World War, and perished in a concentration camp. The Claimant indicated that his great-grandparents had three children: [REDACTED], née [REDACTED]; [REDACTED], née [REDACTED]; and [REDACTED 5] (formerly [REDACTED]). According to information provided by the Claimant, [REDACTED] had three children, [REDACTED 4], [REDACTED] and [REDACTED], and [REDACTED] had two children, [REDACTED 3], née [REDACTED], and [REDACTED 2], née [REDACTED], the Claimant's mother.

The Claimant submitted the following documents in support of his claim:

- 1) copies of newspaper articles from 1993, indicating that Dr. Carl Leopold Netter was Jewish, that he was from Bühl, that he was trained as a lawyer, and that his son-in-law, Dr. Julius Seligsohn-Netter, was married to his only daughter, [REDACTED];
- 2) an excerpt from *The Universal Jewish Encyclopedia*, indicating that Carl Leopold Netter of Bühl took over his father's firm, *Wolf Netter and Jacobi*, and that he was a member of the chamber of commerce and an active member of the Jewish community;
- 3) copies of company reports issued by *Wolf Netter & Jacobi* for the years 1925, 1934, and 1935, indicating that the company was headquartered in Berlin and had offices in various cities, including Berlin-Adlershof, Germany and Bühl, Germany, and that one of the partners was Dr. *jur.* (Doctor of Law) Julius Seligsohn-Netter, based in Berlin, and including a signature sample for Dr. Julius Seligsohn-Netter;
- 4) a copy of his grandmother's report card from 1931-1932, indicating that [REDACTED] was a student in Berlin-Grünwald, Germany, and including Dr. Julius Seligsohn-Netter's signature;
- 5) copies of his great-grandfather's obituaries, indicating that Dr. J. S. Netter (or Dr. Julius S. Netter) was Jewish, that he was a lawyer born in Berlin who worked with his father-in-law, *Kommerzienrat* Dr. Carl Leopold Netter in *Wolf Netter and Jacobi*, that he was a refugee who was the chairman of *Self-Aid of Refugees*, and that he died in England;
- 6) copies of his great-grandparents' wills, indicating that they bequeathed their residual estates in three equal shares, one share absolutely to their son, [REDACTED 5]; one share to establish a trust, the income from which was to benefit their daughter, [REDACTED], during her lifetime, and after her death, the principal to pass in two parts to her children and to the children of [REDACTED 5], or if only one of them had children, then only to those children; and one share to establish a trust, the income from which was to benefit their daughter, [REDACTED], during her lifetime, and after her death, the principal to pass to her children, with any gifts to their grandchildren being contingent on the grandchildren surviving them and reaching the age of 21;
- 7) a copy of his great-grandfather's death certificate, indicating that Julius Seligsohn-Netter died on 29 April 1964 in London;
- 8) a copy of the will of [REDACTED], indicating that she bequeathed her residual estate in equal shares to her children, [REDACTED 4], [REDACTED], and [REDACTED], or if her children did not survive her, their respective shares passing to the issue of

[REDACTED 4], the children of the second marriage of [REDACTED], and the spouse and issue of [REDACTED], respectively;

- 9) a copy of [REDACTED]'s death certificate, indicating that she died on 13 February 1996 in Portland, Oregon, United States, that she was born on 16 June 1913 in Berlin, and that her parents were Jules Netter and [REDACTED];
- 10) a copy of the will of [REDACTED], indicating that she bequeathed her residual estate in equal shares to her surviving children, or to her grandchildren by right of representation, and naming [REDACTED 3] as one of her children and [REDACTED] as her son-in-law;
- 11) a copy of [REDACTED]'s death certificate, indicating that she died on 2 March 1983 in England; and
- 12) a copy of a certificate of inheritance issued by the district court in Frankfurt am Main, Germany, indicating that the heirs of Julius Seligsohn-Netter were [REDACTED 5], [REDACTED 3], [REDACTED 2], [REDACTED 4], [REDACTED], [REDACTED] and [REDACTED].

The Claimant indicated that he was born on 12 January 1973 in Croydon, England. The Claimant is representing his mother, [REDACTED 2], née [REDACTED], who was born on 9 March 1945 in Sheffield, England; his maternal aunt, [REDACTED 3], née [REDACTED], who was born on 16 December 1935 in Sheffield; his mother's cousin, [REDACTED 4], who was born on 2 June 1938 in London; and his great-uncle, the brother of his maternal grandmother, [REDACTED 5], who was born on 9 April 1920 in Berlin.

Additional Information Obtained by the CRT

According to information obtained by the CRT, Carl Leopold Netter was a prominent industrialist as well as an active leader of the Jewish community in Germany. After taking over the management of his father's firm in Strasbourg, he moved its operations to Berlin and developed it into one of the most important companies in Germany's iron industry. After the Nazis came to power in 1933, the company was seized and turned over to the Mannesmann concern.² Netter was also a founder of the metal exchange in Berlin, a member of the chamber of commerce and a trustee of the Commercial Academy of Berlin. He advocated for reforms in

² The CRT notes that Mannesmann's website (<http://www.mannesmann-archiv.de/englisch/years/1938.htm>) puts the date of aryianization at 1938 ("1938 Acquisition of Wolf Netter & Jacobi Werke, Berlin, and formation of Mannesmann-Stahlblechbau AG, Berlin"), as does <http://homepage.ruhr-uni-bochum.de/Martin.Lubda/downloads/documents/mannesmann.pdf> ("Weitere Zukaufe im Jahre 1938 waren Erwerb der Wolf, Netter & Jacobi Werke...") and "Im April 1938...Das halbjüdische Unternehmen Wolf Netter & Jacobi OHG wurde enteignet und ging an die Mannesmann Stahlblech AG Abteilung Berlin-Adlershof." Other websites, however, indicate that the seizure occurred in 1933. See Max Planck Institute webpage: <http://edoc.mpg.de/display.epl?mode=doc&id=60672&col=79&grp=534> ("Wolf Netter und Jacobi Werke K.G.a.A., 1927-1933"), as well as George Seldes' "Facts and Fascism" (1943) www.thirdworldtraveler.com/George_Seldes/Facts_and_Fascism.html. This disparity in dates is reconciled only by a sentence on a webpage of *Les Archives Integrales des Humanite* (<http://www.humanite.presse.fr/journal/1995-03-10/1995-03-10-720395>) which states that "Entre 1933 et 1938, Mannesmann «aryianisait» les usines sidérurgiques de la firme Wolf, Netter et Jacobi." The early date range appears most likely, given that Wolf, Netter & Jacobi was a metal company and thus would have been targeted for aryianization early to help with Germany's re-militarization.

the organization of the pre-World War I iron industry and received an honorary doctorate from the University of Heidelberg.³

In addition to his contributions to German industry, Netter was active in the Jewish community. He sat on the board of directors of the Jewish community of Berlin, represented the community in the Jewish Colonization Association, and was a founder of the Jewish Hospital of Berlin, the *Hilfsverein der Deutsche Juden*, the ICA, the Academy of Jewish Science, and the *Centralverein Deutscher Staatsbürger Jüdischen Glaubens*.⁴

Information Available in the Bank's Records

The Bank's records consist of a customer card, a custody account instruction form, and a printout from the Bank's database. According to these records, the Account Owner was the Estate (*Nachlass*) of *Kommerzienrat* Dr. C. L. Netter, and the Power of Attorney Holders were Dr. Julius Seligsohn-Netter, *Rechtsanwalt* (Attorney) Dr. Julius L. Seligsohn, and *Rechtsanwalt* Dr. Ludwig Priebatsch. These records further indicate that Dr. Julius Seligsohn-Netter was the contact person for the account, and that he resided at Oppenstrasse 87/97 in Berlin-Adlershof, Germany. According to the Bank's records, the signatures of two of the Power of Attorney Holders were required to authorize any transactions involving the Account Owner's accounts, and the records include samples of the signatures of the three authorized parties. The Bank's records indicate that the Account Owner held a demand deposit account and a custody account numbered 36059, both of which were opened no later than 2 February 1933. These records also indicate that on 4 February 1933, *6% Gold Bonds Harpen Mining Corp. 1949* with a nominal value of 12,000.00 United States Dollars ("US \$") were deposited in the custody account.

The Bank's records indicate that the accounts were closed on 26 January 1934. The amount in the accounts on the date of their closure is unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or the Account Owner's beneficiaries closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holders. The Claimant's great-great-grandfather's name and country of residence match the published name and country of residence of the Account Owner. The names of the Claimant's great-great-grandfather's and great-great-grandfather's nephew's names match the published names of two of the Power of Attorney Holders. The Claimant identified the Account Owner's professional title and his status as a *Kommerzienrat*, which matches unpublished information contained in the Bank's records. Furthermore, the CRT notes that the Claimant indicated that his great-great-grandfather

³ Facts and Fascism by George Seldes, In Fact Inc. 1943, Ch. 2

⁴ See Universal Jewish Encyclopedia, Vol. 8, p. 153

had passed away in 1922, which is consistent with the unpublished information in the Bank's records indicating that the account was for the benefit of the estate of C.L. Netter. The Claimant also identified the title and the city and country of residence of Power of Attorney Holder Julius Seligsohn-Netter, which matches unpublished information about Power of Attorney holder Julius Seligsohn-Netter contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including 1) copies of newspaper articles about his great-great grandfather from 1993; 2) an excerpt from *The Universal Jewish Encyclopedia*; 3) copies of company reports of *Wolf Netter & Jacobi*; 4) copies of his great-grandfather's obituaries, copies of his great-grandparents' wills; 5) a copy of his great-grandfather's death certificate; and 6) a copy of [REDACTED]'s death certificate. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner, and that the person claimed to be Power of Attorney Holder Julius Seligsohn-Netter had the same name and resided in the same city as the name and city of residence recorded in the Bank's records for Power of Attorney Holder Julius Seligsohn-Netter. The Claimant also submitted two samples of his great-grandfather's signature, which match the signature sample of Power of Attorney Holder Julius Seligsohn-Netter contained in the Bank's records.

The CRT also notes that the name C. L. Netter appears only once on the February 2001 published 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"). Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner, and those claimants also failed to identify the Power of Attorney Holders.

Status of the Account Owner as a Victim of Nazi Persecution

The CRT notes that while C. L. Netter himself was not a Victim of Nazi Persecution, his Estate, which was administered from Germany after the Nazis' rise to power and whose beneficiaries, including C. L. Netter's daughter, son-in-law, and grandchildren were Victims of Nazi Persecution, may therefore considered to be a Victim of Nazi Persecution. The Claimant stated that the Account Owner's daughter, son-in-law and grandchildren were Jewish, that the Account Owner's son-in-law was forced to sell the family business in Germany, and to flee to England with the Account Owner's daughter and grandchildren in order to avoid further persecution by the Nazis.

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 great-great-grandfather. The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of his great grandparents' and great aunt's wills and copies of his great grandfather's and great aunt's death certificates. The CRT notes that it is plausible that these documents are documents which most likely only a family member would

possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The CRT notes that [REDACTED] has two other children, [REDACTED] and [REDACTED], who are not represented by the Claimant, and from whom the CRT has not received a claim.

The Issue of Who Received the Proceeds

The Bank's records indicate that the two accounts were closed on 26 January 1934.

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 one of the Power of Attorney Holders remained in Germany through 1940 before fleeing to England, and one of the Power of Attorney Holders remained in Germany until being deported to a concentration camp, where he perished, and would not have been able to repatriate the Account Owner's accounts to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's accounts to it; that the Account Owner and its 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 (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,⁵ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holders, 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's mother, the Claimant's great-uncle, the Claimant's aunt, and the daughter of the Claimant's great-aunt, whom he represents. 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 mother and aunt's great-grandfather, his great-uncle's grandfather, and the great-grandfather of the Claimant's mother's cousin, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that [REDACTED 2], as the great-granddaughter of the Account Owner, has a better entitlement to the account than the Claimant, her son.

⁵ Appendix C appears on the CRT II website -- www.crt-ii.org.

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 with the Account Owner's demand deposit account, 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 the ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was SF 2,140.00. 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 an award amount of SF 26,750.00 for the demand deposit account.

With respect to the custody account, the Bank's records indicate that the custody account contained *6% Gold Bonds Harpen Mining Corp. 1949* with a nominal value of US \$12,000.00 and a market value of US \$7,200.00 as of 23 January 1934, which at the time was equivalent to SF 22,248.00.⁶ According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. It is presumed that the account owner, if able to decide freely, could have opted to hold the bond to maturity to avoid a capital loss. However, if a bond is in default, then the award valuation is the market value on or as close as possible to the date the account owner is deemed to have lost control over the account. In this case, according to *Moody's Industrial Manual*, the *6% Gold Bonds Harpen Mining Corp. 1949* were in default.⁷ Accordingly, the market value of SF 22,248.00 shall be used to determine the award amount. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the award amount for the custody account is SF 278,100.00.

Therefore, the total award amount in this case is SF 304,850.00.

Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with the principles of fairness and equity. The Claimant submitted the wills of his great-grandparents, indicating that they bequeathed their estates in equal shares to each of their children, [REDACTED 5], [REDACTED] and [REDACTED]; the will of [REDACTED], indicating that she bequeathed her residual estate in equal shares to her children, [REDACTED], [REDACTED] and [REDACTED], and if her children did not survive her, their respective shares passing to the issue of [REDACTED 4], the children of the second marriage of [REDACTED], and the spouse and issue of [REDACTED], respectively; and the will of [REDACTED], indicating that she bequeathed her residual estate in

⁶ When making currency conversions, the CRT uses official exchange rates.

⁷ *Moody's Industrial Manual, American and Foreign*, 1957, p. 1,848.

equal shares to her surviving children. The Claimant did not submit any inheritance documents pertaining to his great-great-grandfather, Carl Leopold Netter.

In this case, the Claimant is representing his mother, [REDACTED 2], his maternal aunt, [REDACTED 3], his mother's cousin, [REDACTED 4], and his maternal great-uncle, [REDACTED 5]. As indicated above, the Claimant's mother has a better entitlement to the accounts than the Claimant.

Accordingly, [REDACTED 5] and [REDACTED 4] are each entitled to one-third of the total award amount, and [REDACTED 2] and [REDACTED 3] are each entitled to one-sixth 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
16 April 2010