

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf [REDACTED 2]
represented by [REDACTED 2]

in re Accounts of Louis and Max Silbermann

Claim Number: 501524/AK

Award Amount: 514,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED] (the “Claimant”) to the published accounts of Max Silbermann (“Account Owner Max Silbermann”) and Louis Silbermann (“Account Owner Louis Silbermann”) (together the “Account Owners”) at 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 Account Owner Max Silbermann as her father-in-law, Max Silbermann, who was born on 12 November 1870 in Schirwindt, East Prussia (today Kutuzovo, Krasnoznamensk district, Russia), and Account Owner Louis Silbermann as Max Silbermann’s brother, Louis Leyser Silbermann, who was born on 21 May 1879 in Schirwindt. The Claimant stated that her father-in-law was married to [REDACTED], who was born on 28 January 1892. The Claimant indicated that from 1910 to 1938 Max Silbermann resided at Erfurterstrasse 9 in Berlin-Schöneberg, and that from 1919 to 1938 his business address was Charlottenstrasse 64-65a in Berlin-Mitte. The Claimant stated that [REDACTED] and Max Silbermann had two children: [REDACTED], who was born on 6 February 1927 in

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 (the “ICEP List”), the name Max Silbermann is published three times: once as Max Silbermann [Germany], who is indicated as having two accounts, and twice as Max Silbermann [Germany], indicated as having one account each. Upon careful review, the CRT determines that the Max Silbermann who is indicated as having two accounts is the same individual as one of the Max Silbermanns who is indicated as having one account. With respect to the remaining account of Max Silbermann, the CRT has previously issued an award for this account. See *In re Account of Max Silbermann*, which was approved by the Court on 12 May 2005.

Berlin, and [REDACTED] (the Claimant's late husband), who was born on 9 May 1929 in Berlin-Wilmersdorf. The Claimant indicated that Louis Silbermann lived at Yorckstrasse in Berlin, and later at Lindenthaler Allee 29 in Berlin-Zehlendorf. According to the Claimant, Louis Silbermann was married to [REDACTED], and they had two children, [REDACTED] and [REDACTED].

The Claimant stated that Max Silbermann was a merchant, and that he and his brother Louis, who were both Jewish, owned a silk business called "*L. & M. Silbermann OHG.*" According to the Claimant, beginning in 1936, her relatives' business was boycotted and eventually forced to close because of the loss of business. The Claimant stated that Louis Silbermann was deported to a concentration camp in Gurs, France, and that he died in the hospital of Cours Dillon in Toulouse, France. According to the Claimant, Max Silbermann died on 25 September 1938 in Berlin, and his eldest son, [REDACTED], and his wife, [REDACTED], perished in Auschwitz in 1942 and 1943, respectively. The Claimant stated that Louis Silbermann's son [REDACTED] emigrated to Moscow, the Soviet Union (now Russia) in 1934, where he passed away, and that his other son, [REDACTED], who is today over 90 years old, now lives in Rome, Italy. The Claimant stated that her late husband, Max Silbermann's younger son Klaus, died in October 1995 in London, the United Kingdom.

In support of her claim, the Claimant submitted the following documents:

1. the birth certificate of [REDACTED], indicating that he was born on 9 May 1929 in Berlin-Wilmersdorf to Max Silbermann and [REDACTED], née [REDACTED];
2. her own marriage certificate, indicating that she married [REDACTED] on 12 September 1953;
3. a sworn statement by [REDACTED], certified by the German Embassy in London on 22 May 1958, and a certificate of inheritance dated 30 April 1964, indicating that [REDACTED] was Max Silbermann's son and only surviving heir;
4. two certificates issued by the Berlin office of the Main Public Trustee for Restitution Proceedings, indicating that [REDACTED] and [REDACTED], née [REDACTED], who previously resided in Berlin-Schöneberg, were deported from Berlin to Lodz, Poland on 18 October 1941;
5. a decision dated 25 February 1966 from the Berlin Compensation Office, indicating that [REDACTED] was denied compensation because Max Silbermann died of "natural causes" in September or October 1938 and was therefore determined not to have suffered Nazi persecution; and
6. a decision dated 18 October 2001 from the Berlin Regional Office for the Regulation of Open Asset Questions, indicating that the Claimant filed a claim for restitution and compensation with respect to the company "*L. & M. Silbermann OHG.*" This decision indicates that the company "*L. & M. Silbermann OHG.*" was listed in the companies' register of the local district court of Berlin from 1919 to 1937, at which time Max and

Louis Silbermann declared the closure of their business. The decision further indicates that Max and Louis Silbermann were Jewish, and that they were persecuted by the Nazis, which eventually led to the liquidation of their business.

The Claimant indicated that she was born on 19 May 1925 in London. The Claimant is representing her daughter, [REDACTED 2], who submitted her own birth certificate, identifying [REDACTED] and Lilian Silbermann as her parents, and indicating that she was born on 18 December 1957 in London.

Information Available in the Bank's Records

The Bank's record consists of three customer cards. According to one of the cards, the Account Owners were Louis Silbermann and Max Silbermann from Berlin, Germany. This record indicates that the Account Owners jointly held one demand deposit account and one custody account, numbered L28075. This record further indicates that the demand deposit account was closed on 20 October 1936 and that the custody account was closed on 10 October 1936.

According to another customer card, Account Owner Louis Silbermann from Berlin-Zehlendorf held one custody account, numbered L56917. This record indicates that this account was closed on 9 February 1937.

According to the third customer card, Account Owner Max Silbermann from Berlin-Schöneberg held one custody account, numbered L56918. This record indicates that this account was closed on 4 March 1937.

The amounts in the accounts on the date of its closure are unknown. There is no evidence in the Bank's record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names of the Claimant's father-in-law and his brother and their country of residence match the published names and country of residence of the Account Owners. The Claimant's relatives' city of residence matches the unpublished city of residence of the Account Owners. Furthermore, the Claimant identified the fact that her relatives resided in the Schöneberg and Zehlendorf districts of Berlin, which further matches unpublished information about the Account Owners contained in the Bank's records. In support of her claim, the Claimant submitted documents, including the birth certificate of her late husband, [REDACTED], indicating that his father was Max Silbermann, and that he was born in Berlin-Wilmersdorf. These documents provide independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same districts in the same city recorded in the Bank's records as the names and places of residence of the Account

Owners. The CRT further notes that the other claims to these accounts were disconfirmed because those claimants were unable to identify Account Owner Louis Silbermann, and/or provided a city of residence different from that of the Account Owners, and/or did not identify the particular district in Berlin in which Account Owner Max Silbermann resided..

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, that their company was boycotted, and that Account Owner Louis Silbermann was deported to a concentration camp. Furthermore, the Claimant stated that Account Owner Max Silbermann's wife and one of his sons perished in a concentration camp. The Claimant also submitted a decision from the Berlin Regional Office for the Regulation of Open Asset Questions, indicating that the Account Owners were persecuted by the Nazis, which led, *inter alia*, to the liquidation of their business.

The Claimant's Relationships to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's father-in-law and his brother. These documents include the Claimant's marriage certificate, her husband's birth certificate, and [REDACTED 2]'s birth certificate, indicating that the Claimant was married to [REDACTED], Account Owner Max Silbermann's son, and that [REDACTED 2], who is represented by the Claimant, is the daughter of [REDACTED] and the Claimant. The CRT notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's record, and that the Claimant submitted a sworn statement by her late husband and copies of decisions from German restitution authorities, which provide independent verification that the Claimant's father-in-law bore the same name as Account Owner Max Silbermann, and that he and Account Owner Louis Silbermann resided in Berlin. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her Claim Form.

The CRT notes that the Claimant's husband's cousin, [REDACTED], the son of Louis Silbermann, did not submit a claim to these accounts.

The Issue of Who Received the Proceeds

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 the Account Owners were persecuted by the Nazis and their business was boycotted; that Account Owner Max Silbermann remained in Germany until his death in 1938, and that Account Owner Louis Silbermann remained in Germany until emigrating to France the same year, and that neither of them would have been able to repatriate their accounts to Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account

Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their 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),² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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 [REDACTED 2], the Claimant's daughter, who is represented by the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant and [REDACTED 2] have plausibly demonstrated that Account Owner Max Silbermann was [REDACTED 2]'s grandfather, and that Account Owner Louis Silbermann was [REDACTED 2]'s great-uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts. Further, the CRT notes that [REDACTED 2], as Account Owner Max Silbermann's granddaughter and Account Owner Louis Silbermann's great-niece, has a better entitlement to the accounts than does the Claimant, Account Owner Max Silbermann's daughter-in-law and the wife of Account Owner Louis Silbermann's nephew. The CRT notes that the Claimant is not representing [REDACTED] (the son of Account Owner Louis Silbermann), but that if he had been represented, he, as son of Account Owner Silbermann, would have been more entitled to Account Owner Louis Silbermann's share of the joint accounts than the Claimant's daughter, and thus would have been entitled to half of the award amount.

Amount of the Award

In this case, the Account Owners jointly held one demand deposit account and one custody account. Furthermore, Account Owner Max Silbermann and Account Owner Louis Silbermann each 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or 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 total 1945 average value of the four accounts at issue is SF 41,140.00. 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 514,250.00.

² Appendix C appears on the CRT ii website - www.crt-ii.org.

Division of the Award

According to Article 23(1)(c)-(d) 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. If neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. As indicated above, the Claimant's daughter, [REDACTED 2], has a better entitlement to the accounts than the Claimant. [REDACTED 2], as the granddaughter of Account Owner Max Silbermann and the grand-niece of Account Owner Louis Silbermann, is entitled to the entire 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 her claim to determine whether there are additional Swiss bank accounts to which she 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
10 August 2005