

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Karin Kirshner

in re Account of J. Lehmann

Claim Number: 401793/WT¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Karin Toni Kirshner, née Lehmann, (the “Claimant”) to the account of Friedrich (Fritz) Lehmann.² This Award is to the published account of J. Lehmann (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).³

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 her paternal uncle, Julian Lehmann, who was born on 3 October 1886 in Mainz, Germany, and was married to Elsa Lehmann, née Zuntz. The Claimant indicated that her uncle, who was Jewish, was the son of Oscar Lehmann and Toni Lehmann, née Rabinovich, and that he had two brothers, Max Lehmann and Friedrich (Fritz) Lehmann, who is the Claimant’s father. The Claimant indicated that Julian Lehmann died in 1936. The Claimant submitted copies of: (1) her own birth certificate, indicating that Karin Lehmann was born on 19 April 1944 to Frederick Lehmann and

¹ Additionally, in 1999 Claimant Karin Kirshner (the “Claimant”) submitted two Initial Questionnaires (“IQs”), numbered ENG 0565 145 and ENG 0565 146, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim numbers 704848 and 704849, respectively. The CRT will treat these claims in separate determinations.

² The CRT will treat the claim to this account in a separate determination.

³ 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 J. Lehmann appears twice. Upon careful review, the CRT has determined that the second J. Lehmann is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as her relative.

Ruth Lehmann, née Heymann; (2) her own marriage certificate, indicating that on 5 December 1976 Karin Lehmann married Norman Kirshner; (3) her father's birth certificate, indicating that Friedrich Lehmann was born on 20 February 1896 in Mainz; (4) her father's death certificate, indicating that Frederick Lehmann, who was born on 20 February 1896 to Oscar Lehmann and Toni Lehmann, née Rabinovich, died on 25 April 1984; (5) her mother's death certificate, indicating that Ruth Lehmann died on 5 March 1975; (6) a detailed family tree; and (7) genealogical records, indicating that Julian Lehmann was born on 3 October 1886 in Mainz to Oskar Lehmann and Toni Lehmann, and that he worked as an editor.

The Claimant indicated that she was born on 19 April 1944 in New York City, New York, the United States.

Information Available in the Bank's Record

The Bank's record consists of a report from 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"). According to the auditor's report, the Account Owner was J. Lehmann, who resided in Darmstadt, Germany. The auditor's report indicates that the Account Owner held a custody account.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with an additional document. This document consists of a customer card, and indicates that the account was closed on 24 February 1936.

There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules, claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant's uncle's first name initial and country of residence match the published first name initial and country of residence of the Account Owner. The Claimant indicated that her uncle resided in Mainz, which is approximately 42 kilometers from Darmstadt, the Account Owner's city of residence. The CRT notes that the Bank's record does not contain any specific

information about the Account Owner other than his first name initial, last name, and place of residence.

In support of her claim, the Claimant submitted documents, including a detailed family tree and genealogical records, providing independent verification that the person who is claimed to be the Account Owner had the same first name initial and last name recorded in the Bank's record as the first name initial and last name of the Account Owner.

The CRT notes that the other claims to this account were disconfirmed because that claimant provided a different city or country of residence than the city or country of residence of the Account Owner. 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 resided in Nazi Germany before his death in 1936.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's uncle. These documents include a detailed family tree. The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant's claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision. The CRT further notes that the Claimant submitted a copy of her own birth certificate and her father's birth certificate, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Mainz. 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 of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 24 February 1936.

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 tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until his death in 1936, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to him; 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendices A and C),⁴ 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her uncle, and that relationship justifies an Award. Third, 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 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 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.

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 claims 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
24 October 2008

⁴ Appendix C appears on the CRT II website -- www.crt-ii.org.