

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Norma Geraldine Freedman, née Klopfer
also acting on behalf of Peter Siegmund Klopfer,
the Estate of Maria Luise Kaufman and Lisl Zadek

and to Claimant Michel Leopold Klopfer

in re Accounts of *Bankhaus Sigmund Klopfer, Jr., München*

Claim Numbers: 215271/MBC; 501412/MBC

Award Amount: SF 1,116,781.25 Swiss Francs

This Certified Award is based upon the claim of Norma Geraldine Freedman, née Klopfer, (“Claimant Freedman”) to the account of Max Klopfer and the claim of Michel Leopold Klopfer (“Claimant Klopfer”) (together the “Claimants”) to the account of Sigmund Klopfer.¹ This Award is to the unpublished accounts of *Bankhaus Sigmund Klopfer Jr., München* (the “Account Owner”) at the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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 Claimants

Claimant Freedman

Claimant Freedman submitted a Claim Form identifying the Account Owner as a business owned by her paternal great-grandfather, Siegmund Klopfer, who was married to Berta Klopfer, née Bernheim. Claimant Freedman indicated that her great-grandfather, who was Jewish, resided in Munich, Germany, and was the owner of a bank called *Bankhaus Sigmund Klopfer Jr., München*, which was located at Schützenstrasse 7 in Munich, and a hotel in Munich called the *Excelsior*.

¹ Michel Leopold Klopfer (“Claimant Klopfer”) submitted an appeal to an award regarding a different account owned by Sigmund Klopfer that was awarded to Norma Geraldine Freedman, née Klopfer (“Claimant Freedman”). See *In re Account of Siegmund Klopfer* (approved on 31 December 2003). The information contained in his appeal was registered by the CRT as a late claim to a paid account and was treated by the Office of Special Master Michael Bradfield. Since the account at issue here was not previously paid, the information provided by Claimant Klopfer is being considered in the present decision. See Memorandum & Order, December 30, 2004 (addressing claim filing deadlines).

Claimant Freedman stated that Siegmund Klopfer died in the early 1920s and left all his assets to his three sons: Max (Claimant Freedman's paternal grandfather and the father of represented parties Peter Siegmund Klopfer, Maria Luise Kaufman and Lisl Zadek), Leopold (the paternal grandfather of Claimant Klopfer), and Theodore, and that they then became the owners of *Bankhaus Sigmund Klopfer Jr., München*. According to Claimant Freedman and the represented parties, the Klopfer family was persecuted by the Nazis and Max Klopfer was forced to turn over the family's assets and sign a waiver relinquishing his rights to the bank, the hotel, an insurance policy, and the family's house. Claimant Freedman stated that, in 1936, her family fled Germany, first to Italy, then to Palestine (today Israel), and eventually to Canada in 1939. Claimant Freedman stated that her grandfather died on 22 March 1939 in Montreal, Canada.

In support of her claim, Claimant Freedman submitted copies of: (1) her grandfather's marriage certificate, dated 27 May 1920, indicating that Max Klopfer was from Munich; (2) her grandfather's registration form at the Census Office (*Ufficio Anagrafico Municipale*) in Trieste, Italy, addressed to *Max Klopfer di Siegmund*, indicating that Max Klopfer's father's name was Siegmund and that he had three children: Peter (*Pietro*), Maria and Lisl (*Lisa*); (3) her aunt's resident certificate, issued by the municipality of Trieste on 1 September 1938, indicating that Maria Luisa Klopfer was the daughter of Max Klopfer and Berta Lamm, both from Munich; (3) her aunt Lisl's birth certificate, issued in Munich on 20 October 1938, indicating that Liesel Klopfer was the daughter of Max and Berta Klopfer, that Max Klopfer was a banker and that they resided at 28 Magdalenenstrasse in Munich; (4) her aunt Maria Luise's birth certificate, issued on 24 October 1938, indicating that Maria Luise was the daughter of Max and Berta Klopfer, that Max Klopfer was a banker and that they resided at 28 Magdalenenstrasse in Munich; (5) her grandfather's death certificate, issued by the Superior Court in the province of Quebec, Canada, and dated 8 September 1939, indicating that Max Klopfer died in Montreal and that he was a banker; and (6) a deposit slip, issued by *Bankhaus Sigmund Klopfer, Jr., München*, and dated 16 February 1934, indicating that it was located at Schützenstrasse 7 in Munich.

Claimant Freedman indicated that she was born on 2 April 1946 in Montreal. Claimant Freedman is representing her father, Peter Siegmund Klopfer, who was born on 30 April 1921 in Munich, and her father's sisters, Maria Luise Kaufman, née Klopfer, who was born on 1 August 1922 in Munich, and Lisl Zadek, née Klopfer, who was born on 18 September 1924 in Munich.

Claimant Klopfer

Claimant Klopfer submitted a Claim Form identifying the Account Owner as a business owned by his paternal great-grandfather, Siegmund Klopfer, who was married to Berta Klopfer, née Bernheim. Claimant Klopfer stated that his great-grandfather, who was Jewish, resided in Munich and owned a bank called *Bankhaus Sigmund Klopfer, Jr., München*, which was located at Schützenstrasse 7 in Munich, and a hotel called the *Excelsior*. In support of his claim, Claimant Klopfer submitted copies of: (1) a detailed family tree, indicating that Sigmund and Bertha Klopfer from Munich were the parents of Leopold Klopfer (Claimant Klopfer's paternal grandfather); (2) his parents' marriage certificate, indicating that Jean (Johann) Siegmund (Siegesmund) Hermann Klopfer was born in Munich and was the son of Leopold Ludwig Max Klopfer; and (3) his own birth certificate, indicating that Michel Leopold is the son of Johann Siegesmund Hermann Klopfer.

Claimant Klopfer indicated that he was born on 3 May 1952 in Suresnes, France.

Information Available in the Bank's Records

The Bank's records consist of a customer card, a certificate, issued on 8 July 1929, which indicates a deposit of bonds in the Bank, a pledge note, signed on 19 May 1931, by which all assets in the account were pledged as security against any claims the Bank might have against the Account Owner (including default liabilities or "*Regressverpflichtungen*") and a balance sheet, showing declining amounts of covered credit, starting 2 April 1931 and ending 29 September 1931, when the account was freed of the pledge obligation. According to these records, the Account Owner was a bank called *Bankhaus Sigmund Klopfer, Jr., München*, which was located at Schützenstrasse 7 in Munich, Germany. The Bank's records indicate that the Account Owner held one demand deposit account and one custody account, both numbered 23457, both of which were opened in 1926.

According to the Bank's records, on 8 July 1929, a person authorized to act on behalf of the Account Owner ("*i. V.*" or *in Vertretung* [representing]), deposited the following bonds in the account:

- 3.5% *Obl. Schweizerische Bundesbahnen Serie A.K* bonds, with a nominal value of 1,500.00 Swiss Francs ("SF"); and
- 5% *Obl. Schweizerische Bundesbahnen 1925, V.Elekt. Anleihe* bonds, with a nominal value of SF 1,000.00.

The Bank's records indicate that, at maturity, the interest from these bonds was to be deposited in the Account Owner's demand deposit account.

According to the balance sheet detailing the pledge amounts, on 19 March 1931, the Account Owner had a covered credit of SF 74,000.00 at the Bank; this amount declined to SF 36,000.00 on 2 August 1931, to SF 30,000.00 on 26 September 1931 and was noted as being undetermined ("*Kreditsumme z. Zt. Unbestimmt*") on 29 September 1931, at which time the account was released from the pledge obligation, *i.e.*, unblocked ("*Sperre aufgehoben*"). The records indicate that the following bonds, which were held in the custody account, were covered by the pledge obligation:

- 5% *S.B.B 1925, V Elektr. Anleihe* bonds, with a nominal value of SF 3,000.00;
- 3.5% *Gotthardbahn Ges. I Hyp. S.B.B. Anleihe 1895* bonds, with a nominal value of SF 3,000.00;
- 5% *S.B.B. 1924 IV Elektr. Anleihe* bonds, with a nominal value of SF 3,000.00; and
- 3.5% *S.B.B. A.K* bonds, with a nominal value of SF 78,000.00.

The Bank's records do not indicate the value of the demand deposit account.

According to the Bank's records, at some time before 24 January 1936, the Account Owner was in the process of liquidation, at which time its address for the purpose of correspondence with the Bank was changed to Sigmund Klopfer i/L. (in liquidation) c/o *Bankhaus H. Aufhäuser*, located

at Löwengrube 18/20, Munich. The Bank's records indicate that, on the same date, an order was given to transfer any interest from the accounts to the *Reichsbank-Direktorium* in Berlin, Germany, and from there to be transferred to an account in the name of *Sigmund Klopfer, Jr., i/L* at the *Bankhaus H. Aufhäuser*.

The Bank's records indicate that the accounts were closed on 10 December 1936. 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's owners or their heirs closed the accounts and received the proceeds themselves.

These accounts were not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the investigation carried out by auditors pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,² are composed of 1.9 million savings accounts with unknown values or a 1930-1940s value of 250.00 Swiss Francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' great-grandfather's bank's name and city and country of its location match the unpublished name and city and country of the Account Owner's. Claimant Freedman identified the Account Owner's full business address, which matches unpublished information about the Account Owner contained in the Bank's records.

² These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

In support of her claim, Claimant Freedman submitted documents, including her grandfather's registration form at the Census Office in Trieste, Italy, indicating that Max Klopfer's father was Siegmund, and a deposit slip, issued by *Bankhaus Sigmund Klopfer, Jr., München*, indicating that *Bankhaus Sigmund Klopfer, Jr.*, was located at Schützenstrasse 7 in Munich, providing independent verification that the business who is claimed to be the Account Owner had the same name and was located in the same town recorded in the Bank's records as the name and city of the Account Owner.

In support of his claim, Claimant Klopfer submitted copies of: (1) a detailed family tree, indicating that Sigmund and Bertha Klopfer from Munich were the parents of Leopold Klopfer (Claimant Klopfer's paternal grandfather); (2) his parents' marriage certificate, indicating that Jean (Johann) Siegmund (Siegesmund) Hermann Klopfer was born in Munich and was the son of Leopold Ludwig Max Klopfer; and (3) his own birth certificate, indicating that Michel Leopold was the son of Johann Siegesmund Klopfer. The CRT notes that the information provided by Claimant Klopfer is consistent with the information provided by Claimant Freedman.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner's Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that Max, Leopold, and Theodore Klopfer, who were owners of the Account Owner, were Victims of Nazi Persecution. The Claimants stated that the Account Owner's owner and his heirs were Jewish. Claimant Freedman and the persons she represents stated that their family was persecuted by the Nazi regime, and that Max Klopfer was forced to sign a waiver relinquishing his rights to the Account Owner and that the *Bankhaus* was subsequently liquidated, and that, in 1936, their family fled Germany. Claimant Klopfer further stated that his father, the son of Leopold Klopfer, one of the Account Owner's owners, was persecuted by the Nazi regime and forced to flee Germany.

The Claimants' Relationship to the Account Owner

Claimant Freedman has plausibly demonstrated that she is related to the Account Owner's owners by submitting specific information and documents, demonstrating that one of the Account Owner's owners was her grandfather and the father of the persons she is representing. These documents include: (1) her grandfather's registration form from the Trieste Census Office indicating that Max Klopfer was the son of Siegmund, and that he had three children: Peter (*Pietro*), Maria and Lisl (*Lisa*); (2) her aunt's Trieste resident certificate, indicating that Maria Luisa Klopfer was the daughter of Max Klopfer; (3) her aunt's birth certificate, indicating that Liesel Klopfer was the daughter of Max Klopfer; and (4) her aunt's birth certificate, indicating that Maria Luise was the daughter of Max Klopfer.

Claimants Klopfer has plausibly demonstrated that he is related to the Account Owner's owners by submitting specific information and documents, demonstrating that one of the Account Owner's owners was Claimants Klopfer's grandfather. These documents include: (1) his parents' marriage certificate, indicating that Jean Siegmund Hermann Klopfer was the son of Leopold Ludwig Max Klopfer; (2) his own birth certificate, indicating that Michel Leopold was

the son of Johann Siegesmund Hermann Klopfer; and (3) a detailed family tree, indicating that Sigmund Klopfer was the father of Leopold Klopfer.

There is no information to indicate that the Account Owner's owners have surviving heirs other than the parties whom Claimant Freedman is representing.

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 tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner's owners remained in Germany until 1936 and would not have been able to repatriate their accounts to Germany without losing ultimate control over their proceeds; that the Account Owner was confiscated and liquidated by the Nazi regime in approximately 1936; that there is no record of the payment of the Account Owner's accounts to it; that the Account Owner's 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), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner's 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 the Claimants and the parties that Claimant Freedman represents. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Freedman has plausibly demonstrated that one of the Account Owner's owners was the father of the persons she is representing, and Claimant Klopfer has plausibly demonstrated that one of the Account Owner's owners was his grandfather, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner's owners nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Peter Siegmund Klopfer, Maria Luise Kaufman and Lisl Zadek, as the children of one of the Account Owner's Owners, have a better entitlement to the accounts than Claimant Freedman, who is the granddaughter of one of the Account Owner's Owners.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account, both numbered 23457.

With respect to demand deposit account 23457, 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 SF 2,140.00.

With respect to custody account 23457, 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. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss.

The Bank's records indicate that as of 19 March 1931, the custody account contained the following bonds:

- 5% *S.B.B. 1925, V Elektr. Anleihe* bonds, with a face value of SF 3,000.00. These bonds were of good quality and were trading at 103.9% on 29 December 1933. The total market value of these bonds was SF 3,117.00.³
- 3.5% *Gotthardbahn Ges. I Hyp. S.B.B. Anleihe 1895* bonds, with a face value of SF 3,000.00. These bonds were of good quality and were trading at 92.25% on 29 December 1933. Since these bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was SF 3,000.00.⁴
- 5% *S.B.B 1924 IV Elektr. Anleihe* bonds, with a face value of SF 3,000.00. These bonds were of good quality and were trading at 102.85% on 29 December 1933. The total market value of these bonds was SF 3,085.50.⁵
- 3.5% *S.B.B A.K* bonds, with a face value of SF 78,000.00. These bonds were of good quality and were trading at 96.60% on 29 December 1933. Since these bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was SF 78,000.00.⁶

The CRT determines that the combined value of the bonds held in the custody account as of 4 September 1931 was SF 87,202.50.⁷

Thus, the combined value for the two accounts at issue is SF 89,342.50. 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 1,116,781.25.

³ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933

⁷ The CRT endeavors to obtain market quotes as near to the disposition date of the security as possible. The earliest available market quotes for the securities contained in this account are derived from the 30 December 1933 edition of the *Zürcher Kursblatt*.

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, Claimant Freedman is representing her father, Peter Siegmund Klopfer, and her father's sisters, Maria Luise Kaufman and Lisl Zadek. Accordingly, Claimant Klopfer, as the son of Leopold Klopfer, is entitled to half of the total award amount, and Peter Siegmund Klopfer, Maria Luise Kaufman and Lisl Zadek, as the children of Max Klopfer, are entitled to share equally the other half of the total award amount, or one-sixth of the total award amount each. As noted above, Claimant Freedman is not entitled to share in the award.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
30 September 2008