

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]
both represented by Erez Bernstein

in re Accounts of Grete Blumenthal and Hans Klempler

Claim Numbers: 501818/MBC; 501845/MBC

Award Amount: 351,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née Strong, (the “Claimant”) to the published accounts of Grete Blumenthal, *Frl.* Grete Klempler and Hans Klempler. This Award is to the published account of Grete Blumenthal, née Klempler, (“Account Owner Blumenthal”) at the Basel branch of the [REDACTED] (“Bank I”),¹ and the published account of Hans Klempler (“Account Owner Klempler”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (“Bank II”) (together the “Banks”).

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 two Claim Forms identifying Account Owner Grete Blumenthal as her late husband’s mother, Grete Blumenthal, née Klempler, and Account Owner Klempler as her late husband’s maternal uncle.

The Claimant stated that Grete Blumenthal, who was Jewish, was born on 10 December 1897 in Berlin, Germany, was married to [REDACTED] in Berlin, and resided in Berlin and Eberswalde, Germany. The Claimant stated that Grete Blumenthal’s parents were [REDACTED] and [REDACTED], née [REDACTED]. According to the Claimant, Grete and [REDACTED] Blumenthal had two sons, [REDACTED] (the Claimant’s late husband) and [REDACTED]. The

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”), both *Frau* Grete Blumenthal (AKA *Frl.* Grete Klempler) of Berlin and *Frl.* Grete Klempler (AKA Blumenthal, *Frau* Grete) of Berlin are published as account owners. Upon careful review, the CRT has concluded that the Bank’s records indicate that these two individuals are the same person, and that that account owner held only one account.

Claimant explained that [REDACTED] and his mother Grete were deported to Chelm, Poland, where they both perished in 1943.

The Claimant explained that Hans Klempner was Grete Blumenthal's brother, that he was born on 22 December 1898 in Berlin, and that he resided in Berlin during the Second World War. The Claimant stated that Hans Klempner was never married, and that in 1941 he was deported to Minsk Mazowiecki, Poland, where he perished.

In support of her claim, the Claimant submitted copies of documents, including: (1) her marriage certificate, indicating that [REDACTED] married [REDACTED 1] on 7 December 1951 in Sydney, Australia, and that [REDACTED]'s parents were [REDACTED] and Grete Blumenthal, née Klempner; (2) her late husband's testament and will, certified by a Brisbane, Australia court, indicating that [REDACTED] appointed his wife, [REDACTED 1], as executor of his will, and that [REDACTED] had a daughter, [REDACTED 2], and two sons, [REDACTED] and [REDACTED]; and (3) two certificates from the Central Database of Shoah Victims' Names, indicating that Grete Blumenthal was born on 10 December 1897, and that she resided in Berlin-Eberswalde; and that Hans Klempner was born on 22 December 1898; that they both perished in the Holocaust; and that their parents were [REDACTED] and [REDACTED], née [REDACTED].

The Claimant indicated that she was born on 25 January 1929 in Auckland, New Zealand. The Claimant is representing her daughter, [REDACTED 2].

Information Available in the Banks' Records

Bank I

Bank I's records consist of a form containing instructions regarding correspondence, printouts from Bank I's database, and a court guardianship order. According to these records, Account Owner Blumenthal was Grete Blumenthal, née Klempner, who was born on 12 December 1897 and who resided in a sanitarium in Eberswalde, Germany. According to these records, Account Owner Blumenthal held a custody account, numbered 40050-II.

According to the guardianship order, issued by the District Court of Berlin-Charlottenburg on 16 November 1934, [REDACTED] was appointed guardian over all assets belonging to Grete Blumenthal, née Klempner. The records indicate that on 5 December 1934, Bank I was informed that Account Owner Blumenthal had been placed under guardianship and instructed that all correspondence relating to her account should be forwarded to [REDACTED], who resided at Neue Kantstrasse 3 in Berlin-Charlottenburg, Germany. The document further indicates that at the time the instructions were given, Grete Blumenthal resided in a sanitarium in Eberswalde.

Bank I's records do not indicate when the custody account at issue was closed, nor do these records indicate the value of this account.

Bank II

Bank II's records consist of a customer card and two lists of accounts at Bank II. According to these records, Account Owner Klempner was Hans Klempner, who resided in Berlin, Germany. Bank II's records indicate that Account Owner Klempner held one demand deposit account, which was opened on 10 July 1931, and one custody account, numbered 9399 (later renumbered 304850), which was opened on 18 March 1933. Bank II's records indicate that the balance of the custody account as of 31 March 1936 was 1,034.95 Swiss Francs ("SF"). According to these records, in 1946, Bank II conducted a review of the customer card based upon a list available to it, and that at that time a reference was added to the card that Account Owner Klempner had died, and his domicile was crossed off the card.² Bank II's records further indicate that both of the accounts were closed on 30 September 1950. The amounts in the accounts on the date of their closures are unknown.

There is no evidence in the Banks' records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

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 Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Blumenthal and Account Owner Klempner. The Claimant's late husband's mother's name and city and country of residence match the published name and city and country of residence of Account Owner Blumenthal. The Claimant identified Account Owner Blumenthal's later city of residence, namely Eberswalde, which matches unpublished information about Account Owner Blumenthal contained in Bank I's records. Additionally, the Claimant's late husband's uncle's name and country of residence match the published name and country of residence of Account Owner Klempner contained in Bank II's records; the Claimant also identified Account Owner Klempner's city of residence, which matches unpublished information about Account Owner Klempner.

In support of her claim, the Claimant submitted documents, including her marriage certificate, providing independent verification that the person who is claimed to be Account Owner Blumenthal had the same name and resided in the same town recorded in Bank I's records as the name and city of residence of Account Owner Blumenthal.

² The entry on the customer card reads: "*Rev. 1946 Ort gestr. lt. Liste.*" The abbreviation "*sel.*" was appended to Account Owner Klempner's name and the word "Berlin" crossed out. The list upon which Bank II based its review was not contained in the files made available to the CRT.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hans Klempner, and indicates that his date of birth was 22 December 1898, which matches the information about Account Owner Klempner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Additionally, the CRT notes that the database also includes two pages of testimony submitted by the Claimant in 1988, which indicates that Grete Blumenthal was born on 10 December 1897 in Berlin, Germany, and that Hans Klempner was born on 22 December 1898 in Berlin, which matches the information about the Account Owners provided by the Claimant. Furthermore, the database contains a person named [REDACTED].

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

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Blumenthal and Account Owner Klempner were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they resided in Nazi-Germany during the Second World War, and that they were both deported to Poland, where they perished.

As noted above, persons named Grete Blumenthal and Hans Klempner were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Blumenthal by submitting specific information and documents, demonstrating that Account Owner Blumenthal was the Claimant's late husband's mother. These documents include her marriage certificate. The Claimant has also plausibly demonstrated that she is related to Account Owner Klempner by submitting specific biographical information. 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 Owners' accounts in this decision.

The CRT further notes that the Claimant submitted documents to the Central Database of Shoah Victims' Names in 1988, identifying the relationship between the Account Owners and herself, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted a copy of her marriage certificate, which provides independent verification that the Claimant's relatives bore the same family name as Account Owner Klempner, and that they resided in Berlin, Germany. 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 Forms.

The Issue of Who Received the Proceeds

With respect to the custody account at Bank I, given that Account Owner Blumenthal resided in Nazi-Germany, and was subsequently deported and perished in Poland during the Second World War; that there is no record of the payment of Account Owner Blumenthal's account to her or her guardian nor any record of a date of closure of the account; that Account Owner Blumenthal's heirs would not have been able to obtain information about her account after the Second World War from Bank I 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 Account Owner Blumenthal or her 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.

With respect to the demand deposit account and custody account at Bank II, given that Account Owner Klempner resided in Nazi-Germany, and was subsequently deported to Poland, where he perished; that there is no record of the payment of Account Owner Klempner's accounts to him; that the accounts were closed after his death but there is no record that they were paid to his heirs; that Account Owner Klempner's heirs would not have been able to obtain information about his accounts after the Second World War from the Banks 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, the CRT concludes that it is plausible that the accounts' proceeds were not paid to Account Owner Klempner or his heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of represented party [REDACTED 2]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Blumenthal was represented party [REDACTED 2]'s paternal grandmother, and that Account Owner Klempner was represented party [REDACTED 2]'s paternal grandmother's brother, 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 represented party [REDACTED 2], as Account Owner Blumenthal's granddaughter, and Account Owner Klempner's sister's granddaughter, has a better entitlement to the accounts than the Claimant, who is Account Owner Blumenthal's daughter-in-law, and Account Owner Klempner's nephew's wife.

Amount of the Award

In this case, Account Owner Blumenthal held one custody account at Bank I. 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 SF 13,000.00.

With respect to the accounts held by Account Owner Klempner at Bank II, Account Owner Klempner held one custody account and one demand deposit account. Bank II’s records indicate that the balance of the custody account as of 31 March 1936 was SF 1,034.95. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the custody account shall be determined to be SF 13,000.00. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00.

Thus, the combined 1945 average value for the demand deposit account and custody account at Bank II, and the custody account at Bank I is SF 28,140.00. 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 351,750.00.

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; and according to Article 23(1)(d) of the Rules, 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. In this case, the Claimant is representing her daughter, [REDACTED 2].

As noted above, represented party [REDACTED 2], as Account Owner Blumenthal’s granddaughter and Account Owner Klempner’s great-niece, is a descendant of Account Owner Blumenthal and of Account Owner Klempner’s parents, and therefore is more entitled to the accounts than the Claimant, who is related to the Account Owners by marriage only. Accordingly, represented party [REDACTED 2] is entitled to the entire award amount.

As noted above, the Claimant is not entitled to share in the award.

Certification of the Award

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

Claims Resolution Tribunal
13 February 2009