

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

**in re Account of Maurycy Kamieniecki, Samuel Habergruetz, Elias Menes, Wolf Szapiro,
and Pinkus Mondrzak**

Claim Numbers: 211031/MBC; 703483/MBC¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the account of Elias Menes. This award is to the unpublished account of Maurycy Kamieniecki (“Account Owner Kamieniecki”), Samuel Habergruetz (“Account Owner Habergruetz”), Elias Nosen Menes (“Account Owner Menes”), Wolf Szapiro (“Account Owner Szapiro”), and Pinkus Mondrzak (“Account Owner Mondrzak”) (together the “Account Owners”) at the London branch of the [REDACTED] (the “Bank”).

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 and an Initial Questionnaire (“IQ”) identifying Account Owner Menes as his father, Elias (Elja) Noson Menes, who was born in Brest, Russia (now Belarus) in approximately 1882, and was married to [REDACTED], née [REDACTED], who was born in approximately 1886. The Claimant indicated that his father and his father’s business partners, *Messrs.* Mondrzak, Szapiro, and Kamieniecki, and Samuel Haber (Habergrütz), were industrialists and the co-owners of the *Plutos* chocolate factory, which was located at Barska 28 in Warsaw, Poland. The Claimant indicated that he, his parents, and his two brothers ([REDACTED] and [REDACTED]) lived at Natolinska 6 in Warsaw. According to the Claimant, his father regularly sent him money from a Swiss bank account while the Claimant

¹ In addition to his Claim Form, [REDACTED] (the “Claimant”) submitted an Initial Questionnaire (“IQ”), numbered ENG-0272084 to the Court in the United States in 1999. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 703483.

was studying in Paris, France in 1938 and 1939. The Claimant explained that he and his family, who were Jewish, were evicted from their home by German troops in October 1939 and forced to live in the Warsaw ghetto, that his father was deported to Treblinka, where he perished in approximately 1942, and that his mother perished in 1943 in Warsaw. The Claimant indicated that he is his parents' only surviving child, and that his brothers had children, who are not represented in his claims. The Claimant submitted a copy of his birth certificate, issued in Warsaw, which indicates that [REDACTED]'s parents were Elja Noson Menes and [REDACTED], née [REDACTED].

The Claimant indicated that he was born on 2 November 1920 in Warsaw.

Information Available in the Bank's Records

The Bank's records consist of printouts prepared by 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 these records, Account Owner Szapiro was Wolf Szapiro, who resided in Warsaw, Poland. The Bank's records indicate that Account Owner Szapiro held two custody accounts, numbered 9068 and 11157. The Bank's records further indicate that custody account 9068 was opened on 10 December 1929, and closed on 14 February 1939, and that custody account 11157 was opened on 9 June 1931, and closed on 23 January 1939. Additionally, these records indicate that Account Owner Kamieniecki was Maurycy Mowsza Kamieniecki,² who also resided in Warsaw, and that he owned one custody account, numbered 11155. The Bank's records indicate further that this custody account was opened on 9 June 1931, and closed on 23 January 1939. The amounts in these three accounts on the dates of their closure are unknown.

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 these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of printouts from the Bank's database, lists of accounts, a card from the Private Clients' Department, a United Kingdom Trading with the Enemy Act of 1939 registration card, and account statements. These documents indicate that Account Owner Habergruetz was Samuel Habergruetz; that Account Owner Menes was Eljasz (Elja) Nosen Menes; and that Account Owner Mondrzak was Pinkus Mondrzak. These documents indicate that these Account Owners, together with Account Owner Kamieniecki and Account Owner Szapiro, resided in Warsaw, and were associated with *Fabrique de Chocolat* [Chocolate Factory] 'Plutos' SA in Warsaw. The Bank's records indicate that the Account Owners jointly held one custody account at the London branch of the Bank. The Bank's records indicate that the account was registered under the Trading with the Enemy Act. The Bank's

² 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 Mowsza Kamieniecki-Maurycoy appears. Upon careful review, the CRT has determined that this account owner's name is Maurycy Mowsza Kamieniecki.

records further indicate that the balance of the account as of 30 June 1944 was 656.33 Pound Sterling (“£”).

The Bank’s records indicate that fees continued to be charged to the account on a regular basis, including safekeeping fees charged to hold 1,400 shares of *Plutos* in the Bank’s custody. Neither the value of these shares nor the details of any other securities held in the Bank’s custody is included in the Bank’s records. Handwritten notes on several of the account statements state that the balance of the account was “not to appear on balance sheets.” According to the Bank’s records, on 27 May 1963, the account was transferred to a collective account entitled “safekeeping reserve account.” The balance of the account on the date of the transfer was £149.83. There is no information regarding the ultimate disposition of the assets in the account.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Menes. The Claimant’s father’s name matches the unpublished name of Account Owner Menes. Additionally, the Claimant identified Account Owner Menes’s business, the *Plutos* chocolate factory, as well as the names of the other Account Owners, including Account Owner Kamieniecki and Account Owner Szapiro, which match unpublished information contained in the Bank’s records.

In support of his claim, the Claimant submitted documents, including his birth certificate, providing independent verification that the person who is claimed to be Account Owner Menes had the same name and resided in the same town recorded in the Bank’s records as the name and city of residence of Account Owner Menes.³

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Elie (Eli) Menes,⁴ and indicates that he was born in 1880 in Brest-Litowsk, was married to [REDACTED], owned the factory *Fabrique de Chocolat Plutos*, resided in Warsaw, and perished in Treblinka. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes the other claim to this account was disconfirmed because that claimant provided a different occupation than the occupation of the Account Owners.

³ The CRT notes that the Claimant indicated his father’s middle name was spelt “Noson,” whereas the Bank’s records show that Account Owner Menes’s middle name was spelt “Nosen.” The CRT considers these to be variant spellings of the same name and concludes that this discrepancy is not material to the identification of the Account Owner.

⁴ The CRT notes that “Elie,” “Eli,” and “Elja” are variants of “Eliasz.”

Status of Account Owner Menes as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Menes was a Victim of Nazi Persecution. The Claimant stated that Account Owner Menes was Jewish and was deported to Treblinka, where he perished. As noted above, a person named Elie (Eli) Menes was included in the CRT's database of victims.

The Claimant's Relationship to Account Owner Menes

The Claimant has plausibly demonstrated that he is related to Account Owner Menes by submitting specific information and documents, demonstrating that Account Owner Menes was the Claimant's father. These documents include a copy of his birth certificate, indicating that his father was Elja Noson Menes.

The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records; and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Menes was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Menes, as he has asserted in his claims.

Additionally, the CRT notes that although the Claimant has identified Account Owner Kamieniecki and Account Owner Szapiro as his father's business associates, he has not provided any information demonstrating he would be entitled to their individual accounts.

The CRT notes that the Claimant indicated that his brothers, who are no longer alive, had children, who are not represented in his claims and have not submitted claims to the CRT on their own behalf.

The Issue of Who Received the Proceeds

Regarding the two associated custody accounts numbered 11155 and 11157, belonging to Account Owner Kamieniecki and Account Owner Szapiro, respectively, the Bank's records indicate that they were both were closed on 23 January 1939. Regarding the custody account numbered 9068, belonging to Account Owner Szapiro, the Bank's records indicate that it was closed on 14 February 1939. The CRT notes that these three accounts were all closed prior to the German invasion of Poland, the country of residence of Account Owner Szapiro and Account Owner Kamieniecki. Accordingly, the CRT concludes that Account Owner Szapiro and Account Owner Kamieniecki closed these accounts themselves and received the proceeds. As noted above, although the Claimant has identified Account Owner Kamieniecki and Account Owner Szapiro as his father's business associates, he has not provided any information demonstrating he would be entitled to their individual accounts based on familiar relationship or testamentary documents.

Regarding the custody account owned jointly by the Account Owners, the Bank's records indicate that the account was transferred to a safekeeping reserve account on 27 May 1963. There is no information regarding the final disposition of the account. Given that Account Owner Menes perished at Treblinka, that the Account Owners and their heirs would not have been able to obtain information about their 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; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A), 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 the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Menes was his father and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owners nor their heirs received the proceeds of the claimed account.

The CRT notes that the Claimant indicated that he has several nephews and nieces, and that they would also be entitled to share in the award, but that because they are not represented in his claims and have not submitted claims to the CRT on their own behalf, their potential entitlement to the account will not be treated in this decision.

Amount of the Award

In this case, the Account Owners held one custody account. The Bank's records indicate that the balance of the account as of 30 June 1944 was £ 656.33, which was equivalent to 11,361.07 Swiss Francs ("SF").⁵ 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 account shall be determined to be SF 13,000.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 162,500.00.

Division of the Award

According to Article 25(2) of the Rules, in cases where a joint account is claimed by relatives of only one or some of the joint Account Owners, it shall be presumed that the account was owned as a whole in equal shares by the Account Owners whose shares of the account have been claimed. Accordingly, the Claimant is entitled to the entire award amount.

⁵ The CRT uses official exchange rates when converting amounts in foreign currencies into Swiss Francs.

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 claims 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
26 November 2008