

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Fred Klein
represented by Steven A. Friedman

in re Accounts of Dr. Otto Klein and Frieda Klein

Claim Number: 222863/LK

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claim of Fred Klein (the “Claimant”) to the accounts of Otto Klein. This Award is to the accounts of Dr. Otto and Frieda Klein (the “Account Owners”) at the [REDACTED] (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 Claimant

The Claimant submitted a Claim Form identifying the Account Owners as his father’s first cousin, Dr. Otto Klein, who was born in Czechoslovakia in the late 1800s, and Dr. Klein’s wife, Frieda Klein, née Katzova. According to the Claimant, Dr. Otto Klein and Frieda Klein were married in Prague, Czechoslovakia, and had no children. The Claimant stated that Dr. Otto Klein was a medical doctor, who specialized in internal medicine and was a professor at Charles University. The Claimant further stated that his father’s cousin lived at Prague II, Vladislavova, Czechoslovakia, until 1939, when he fled to Argentina. According to the Claimant, Dr. Otto Klein and his wife, who were Jewish, were able to flee Prague with the help of one of Dr. Otto Klein’s patients, who was the General Consul of Argentina and was able to offer Dr. Otto Klein a position to work as his personal physician on his ship bound for Argentina. The Claimant stated that his father’s cousin had already recognized the danger for Jews in Europe and had already begun hiding his money in Canada and in Switzerland before fleeing Prague.

The Claimant explained that once in Buenos Aires, Argentina, Dr. Otto Klein obtained his medical license and remained there with his wife. The Claimant further explained that his relatives converted to Catholicism sometime after their arrival in Buenos Aires and died there in approximately 1971. The Claimant stated that he contacted Dr. Otto Klein in 1946 from his home in Pilsen, Czechoslovakia, as he was the only Holocaust survivor from the Claimant’s extended family, and went to Buenos Aires and lived with him from 1949 to 1955. According to the Claimant, Dr. Otto Klein told him that he had money in Switzerland. In support of his claim,

the Claimant submitted numerous documents indicating the names of his relatives and their addresses in Czechoslovakia, including transport cards to Theresienstadt that were issued for his mother, Hedvika Klein, and his father, Dr. Alfred Klein, and his own transport card. The Claimant further submitted his father's birth certificate indicating that he was the son of Dr. Leopold Klein. The Claimant indicated that he was born on 11 August 1922 in Pilsen.

Information Available in the Bank's Records

The Bank's records consist of two account ledgers and printouts from the Bank's database. According to these records, the Account Owners were Dr. Otto Klein and his wife, Mrs. Frieda Klein, who resided in Prague II, Czechoslovakia. The Bank's records indicate that the Account Owners held two accounts of unknown type, numbered 66302, one of which was opened on 15 July 1938.¹ The Bank's records do not show when the accounts at issue were closed, to whom they were paid, or the values of these accounts. 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") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records 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 name of his father's cousin and his father's cousin's wife's name and place of residence match the published name and domicile of the Account Owners. Despite the fact that the names of the joint Account Owners were published separately on the list of bank accounts published by the ICEP Investigation on 5 February 2001, the Claimant stated that the Account Owners were husband and wife, which matches unpublished information about the Account Owners contained in the Bank's records. Furthermore, the Claimant identified his relative's profession and the section of the city in which his relatives lived, which also matches unpublished information about the Account Owners contained in the Bank's records. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different married names, different countries of residence and different spouses' names than the married names, country of residence and spouses' names of the Account Owners.

¹ The CRT notes that the number of a numbered account is used to identify a customer relationship rather than a specific account; therefore, one number may be used for multiple accounts held by the same customer.

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 and were forced to flee Czechoslovakia in 1939.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents demonstrating that the Account Owners were his father's cousin, Dr. Otto Klein, and Dr. Otto Klein's wife, Frieda Klein. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that Account Owners' accounts remained in existence after the war, that there is no record of the payment of the accounts to the Account Owners after the war, 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 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 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his father's cousin and his father's cousin's wife, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two accounts of unknown type. 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 an account of unknown type was 3,950.00 Swiss Francs, producing a total of 7,900.00 Swiss Francs for the two accounts. 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 98,750.00 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 claim 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
July 15, 2003