

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Henri Friedmann
also acting on behalf of Shirley Edna Kaplan, Hugo Ronny Friedman,
and Werner Heinz Lang

in re Account of Johanna Lang and Amalie Lang

Claim Number: 209679/AV

Award Amount: 66,487.50 Swiss Francs

This Certified Award is based upon the claim of Henri Friedmann (the “Claimant”) to the account of Hugo Friedmann.¹ This Award is to the unpublished account of Johanna Lang (“Account Owner Johanna Lang”) and Amalie Lang (“Account Owner Amalie Lang”) (together the “Account Owners”) at the Zurich branch of [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 Account Owner Johanna Lang as his paternal aunt, Johanna Sara Lang, née Friedmann, who was born on 21 December 1902 in Themar, Germany, and was married to Karl Lang. According to the Claimant, Johanna Lang, who was Jewish, had three siblings: Sitta Lewin, née Friedmann, Bruno Friedmann, and Friedrich Friedmann, the Claimant’s father. The Claimant specified that Johanna Lang had two children: Wilma Caye, née Lang, who passed away on 15 August 1994, and Werner Heinz Lang. The Claimant stated that Johanna Lang and Karl Lang lived in Germany, where Karl Lang was involved in roofing repairs. The Claimant further stated that his aunt and her husband fled Germany to South Africa in 1936. In an e-mail to the CRT dated 30 June 2005, the Claimant indicated that Karl Lang died in Cologne, Germany on 19 July 1963. Finally, the Claimant indicated that Johanna Lang died in Johannesburg, South Africa, on 11 May 1970.

The Claimant indicated that he was born on 8 October 1947 in Uccle, Belgium. The Claimant is representing his cousins, Shirley Edna Kaplan, Bruno Friedmann's daughter, who was born on 5 October 1951 in Johannesburg; Hugo Ronny Friedman, Bruno Friedmann's son, who was born

¹ The CRT will treat the claim to this account in a separate decision.

on 3 January 1947 in Johannesburg; and Werner Heinz Lang, Johanna Lang's son, who was born on 27 January 1927 in Frankfurt, Germany.

Information Available in the Bank's Records

The Bank's records consist of a letter from the Bank, dated 30 June 1940, and a printout from the Bank's database. According to these records, Account Owner Johanna Lang was *Frau* (Mrs.) Johanna Lang and Account Owner Amalie Lang was *Frl.* (Miss) Amalie Lang. The Bank's records indicate that the Account Owners were German citizens, and that Account Owner Johanna Lang resided in Zurich, Switzerland in 1940. The Bank's records further indicate that the Account Owners held an account, numbered 118788, the type of which is not indicated. In addition, the Bank's records indicate that the account was included in the 1945 freeze of assets held in Switzerland by citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), and that it had a balance of SF 5,304.00 on 17 February 1945.

The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account. 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's aunt's name matches the unpublished name of Account Owner Johanna Lang. In addition, the Claimant indicated that Johanna Lang was Account Owner Johanna Lang's married name, which is consistent with unpublished information about Account Owner Johanna Lang contained in the Bank's records. The CRT notes that the Claimant has not identified Account Owner Amalie Lang. The CRT further notes that "Lang" is the family name of the Claimant's aunt's spouse's family, and that the Claimant was not born until after the Second World War, in 1947, rendering it unlikely that he would possess extensive information regarding his extended family. Consequently, the CRT concludes that the failure to identify Account Owner Amalie Lang does not undermine the Claimant's identification of Account Owner Johanna Lang. The CRT also notes that the Claimant indicated that his aunt fled to South Africa in 1936, while the Bank's records indicate that the Account Owner resided in Zurich in 1940. However, again considering that the Claimant was born after the War, the CRT finds it plausible that the Claimant's aunt did not flee until later, and then via Switzerland.

Finally, the CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Johanna Lang.

Status of Account Owner Johanna Lang as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Johanna Lang was a Victim of Nazi Persecution. The Claimant stated that Account Owner Johanna Lang was Jewish, and that she fled from Nazi Germany to South Africa in 1936.

The Claimant's Relationship to Account Owner Johanna Lang

The Claimant has plausibly demonstrated that he is related to Account Owner Johanna Lang by submitting specific biographical information, demonstrating that Account Owner Johanna Lang was the Claimant's aunt. The CRT notes that the Claimant identified unpublished information about Account Owner Johanna Lang as contained in the Bank's records. The CRT further notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Johanna Lang 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 Johanna Lang, as he has asserted in his Claim Form. There is no information to indicate that Account Owner Johanna Lang has other surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that Account Owner Johanna Lang fled from Nazi Germany to South Africa; that there is no record of the payment of the Account Owners' account to them, nor any record of a date of closure of the account; 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 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 Account Owner Johanna Lang was his aunt, and that relationship justifies 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 account. Further, the CRT notes that Werner Heinz Lang, as Account Owner Johanna Lang's son, has a better entitlement to the account than the Claimant, Hugo Ronny Friedman, and Shirley Edna Kaplan, Account Owner Johanna Lang's nephews and niece.

The CRT notes that the Claimant has identified Account Owner Johanna Lang as his relative, but has not established that he was related to Account Owner Amalie Lang. According to Article

25(2) of the Rules, in cases where a joint account is claimed by relatives of only one of the joint account owners, it shall be presumed that the account was owned as a whole by the account owner whose share of the account has been claimed. Consequently, it shall be presumed that the accounts jointly held by the Account Owners were owned as a whole by Account Owner Johanna Lang.

Amount of the Award

In this case, Account Owner Johanna Lang held one account of unknown type. The Bank's records indicate that the value of the account as of 17 February 1945 was SF 5,304.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 15.00, which reflects standardized bank fees charged to the account in 1945. Consequently, the adjusted balance of the account at issue is SF 5,319.00. The current value of the amount of the award is determined by multiplying the historic value 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 66,487.50.

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, the Claimant is representing Werner Heinz Lang, the son of Account Owner Johanna Lang. Accordingly, Werner Heinz Lang is solely entitled to the total award amount. As noted above, the Claimant, Hugo Ronny Friedman, and Shirley Edna Kaplan, as Account Owner Johanna Lang's nephews and niece, are not entitled to a share of the award.

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
21 September 2005