

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Franz J. Langendorff and Margot Langendorff

Claim Number: 220008/LV

Award Amount: 81,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Dr. Franz J. Langendorff and Margot Langendorff (the “Account Owners”) at the Zurich 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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owners as his father, Dr. Franz Joseph Langendorff, who was born on 31 March 1891 in Berlin, Germany, and his mother, Margot Langendorff, née Kraft, who was born on 27 January 1891 in Berlin. The Claimant stated that his parents were married on 31 May 1916 in Bonn, Germany, and that they had two children: the Claimant and his late sister, [REDACTED]. According to the information provided by the Claimant, his father, who was Jewish, was a physician who resided at Hohenzollernstrasse 28 in Bonn, and later moved to Eichenallee 35 in Berlin, where he resided with his family until 1938. The Claimant stated that his parents fled in 1938 to the United States, where his father died on 13 April 1964 and his mother on 11 June 1977, both in New York, New York. The Claimant submitted his own and his late sister’s birth certificates indicating that Franz Joseph Langendorff and Margot Langendorff were their parents, and his parents’ passports, each dated 4 June 1936 and indicating that they resided in Berlin. The Claimant stated that he was born on 1 March 1923 in Berlin.

The Proceedings before the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”)

The Claimant’s sister, [REDACTED], previously submitted an ATAG Ernst & Young claim form in 1997, on behalf of both herself and the Claimant, asserting their entitlement to a Swiss

bank account owned by Franz J. Langendorff and Margot Langendorff, whose names were included in the list of dormant accounts published by the Swiss Bankers' Association in July 1997. The documents provided by the Claimant's sister indicate that Franz and Margot Langendorff resided at Eichenallee 35 in Berlin, Germany. The Claimants stated that their mother's maiden name was Kraft, and that the Power of Attorney to their parents' account, Werner Kraft, was their maternal uncle.

On 24 November 1999, the Sole Arbitrator of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (the "Sole Arbitrator") rendered a Partial Award, in which the Bank was ordered to pay [REDACTED] and [REDACTED] the assets contained in a demand deposit account, numbered 60246, belonging to their parents, Dr. Franz J. Langendorff and Margot Langendorff. The balance of the account on 21 April 1998 was 5,307.30 Swiss Francs ("SF"), and [REDACTED] and [REDACTED] each received an amount of SF 2,654.00. The Sole Arbitrator stated that a Final Award would be issued in which it would be determined whether additional compensation was due on the basis of the Rules on Interest, Charges, and Fees ("Rules on Interest and Fees") established by the Board of Trustees of the Independent Claims Resolution Foundation. A Final Award was accordingly rendered by the Sole Arbitrator pursuant to an arbitration concluded on 27 November 2000 (the "Arbitration").¹ The Sole Arbitrator ordered the Bank to pay [REDACTED] and [REDACTED] an additional SF 80,892.00, as compensation for compounded investment return and fee adjustment in accordance with the applicable Rules on Interest and Fees. Therefore, the total amount paid by the Bank to the Claimant and his sister, [REDACTED], was SF 86,200.00. The Sole Arbitrator based this award amount on the earliest known account value for the account, which was SF 6,800.00 as of 31 December 1985. This amount was adjusted to reflect standardized bank fees charged, interest earned, and/or capital appreciation on the assets because the 31 December 1944 value of the account was not available in the Bank documents. Based upon these calculations, the adjusted historic value was determined to be SF 8,620.00. This value was then multiplied by a factor of ten to allow for compounded return on investment from the end of 1944 until the end of 1999 to produce a total arbitral award of SF 86,200.00.

During the course of the Arbitration, the Bank provided [REDACTED] and [REDACTED] with the Bank's documents relating to Franz and Margot Langendorff's accounts at the Bank. These documents included an account opening contract, dated 12 January 1930; copies of customer cards; a custody account opening contract, dated 21 June 1930; a power of attorney form, dated 9 February 1933, in which the Account Owners granted power of attorney to Mr. Georg Bick of Berlin, Germany, and which was later annulled on 21 September 1934; a power of attorney form, dated 21 September 1934, in which the Account Owners granted power of attorney to Dr. Werner Kraft of London, the United Kingdom; bank letters to the Account Owners; internal bank correspondence; and account statements.

Information Available in the Bank's Records

The Bank's records consist, in addition to those provided by the Bank in the course of the Arbitration, of the Bank's correspondence with the Swiss Clearing Office (*Schweizerische*

¹ Claims Resolution Tribunal for Dormant Accounts in Switzerland, Docket No. 64348/0698.

Verrechnungsstelle) regarding the freeze of the Account Owner's assets in the 1945 freeze of assets held in Switzerland by citizens of Germany and territories incorporated into the Third Reich (the "1945 Freeze"); the Bank's letters to the Account Owners regarding the 1945 Freeze; a customer card; an internal list of dormant accounts; and records relating to payments made to the Claimant and [REDACTED]. The latter documents were submitted to the CRT 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, the joint Account Owners were Dr. Franz J. Langendorff and *Frau* (Mrs.) Margot Langendorff, née Kraft, who resided at Eichenallee 35 in Berlin-Charlottenburg, Germany. The Bank's records indicate that the Account Owners granted power of attorney to Mr. Georg Bick on 9 February 1933, and that this power of attorney was annulled on 21 September 1934. The Bank's records further indicate that on 21 September 1934 the Account Owners granted power of attorney to Dr. Werner Kraft, who resided at 19 Crossfield Road in London, the United Kingdom.

The Bank's records indicate that the Account Owners opened a demand deposit account on 12 January 1930, and a custody account, numbered 29061, on 21 June 1930. These records further indicate that the demand deposit account was closed on 28 June 1933 and that the custody account numbered 29061 was closed on 16 October 1933. The value of these accounts on the dates of their closure is unknown.

Furthermore, the Bank's records indicate that the Account Owners jointly held a custody account and a demand deposit account, both held under a numbered account bearing the number 60246. The customer card indicates that account, numbered 60246, was opened on 21 June 1930. According to the Bank's records, in 1934 the Account Owners held securities and gold in their custody account. The Bank's records indicate that the last contact with the Account Owner's took place in 1934. According to the Bank's records, the demand deposit account was opened on 5 December 1940.²

The Bank's records show that as of February 1945, the Account Owners held only a demand deposit account. According to the Bank's records, the balance of the demand deposit account on 17 February 1945 was SF 5,406.50. The Bank's records further indicate that the assets belonging to account numbered 60246 were blocked pursuant to the 1945 Freeze. The freeze of the assets held by the Account Owners was lifted on 5 November 1953. The Bank's records also indicate that sometime between 1945 and 1952, the Bank invested SF 5,000.00 from the demand deposit account in 3 ¼% *Eidg. Anleihe 1945/Dez.* bonds at a nominal value of SF 5,000.00. Those securities were deposited in a custody account. The Bank's records indicate that the total market value of the securities deposited in the custody account amounted to SF 5,180.00 on 22 April 1953, and that the balance of the demand deposit account on that date was SF 461.88. The Bank's records show that the demand deposit account and the custody account held by the Account Owners were registered in an internal survey of dormant accounts in 1959. According

² Although the Bank's records do not contain any information regarding opening of the demand deposit account, the CRT deems it plausible that the assets held in the custody account were sold and the proceeds were deposited in a newly opened demand deposit account.

to the Bank's records, the proceeds of the custody account were credited to the Account Owners' demand deposit account some time after 1959. The Bank's records demonstrate that the assets in the demand deposit account were paid out to the Claimant and his sister pursuant to the arbitral award rendered by the Sole Arbitrator in 2000.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's parents' names and country and city of residence match the published names and country and city of residence of the Account Owners. The Claimant further identified his father's title and his parents' exact street address in Berlin, which match unpublished information about the Account Owners contained in the Bank's records. In support of his claim, the Claimant submitted his own birth certificate, identifying Franz Langendorff and Margot Langendorff as his parents; and his parents' passports, indicating that they resided in Berlin, Germany. The CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by Franz Josef and Margot Langendorff, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his parents owned a Swiss bank account prior to the publication of the ICEP List. The CRT further 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 the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled from Germany to the United States in 1938.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting his own birth certificate, which identifies Franz Langendorff and Margot Langendorff as his parents.

The Issue of Who Received the Proceeds

With regard to the demand deposit account closed on 28 June 1933, and the custody account, numbered 29061, closed on 16 October 1933, the CRT notes that the Account Owners were able to maintain contact with the Bank after 1933, as evidenced by the appointment of Dr. Werner Kraft as the Power of Attorney Holder in 1934. Consequently, the CRT concludes that the

Account Owners had access to these accounts and were able to close the accounts and receive the proceeds.

Regarding the custody account and the demand deposit account, numbered 60246, the CRT notes that the custody account was liquidated sometime after 1959, and that its proceeds were credited to the demand deposit account and that in the Arbitration the Claimant and his late sister were previously awarded the amount of SF 86,200.00 for the account numbered 60246.

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 Governing the Claims Resolution Process, as amended (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owners were his parents, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account prior to the Arbitration.

Amount of the Award

Although the Claimant and his late sister already received the assets contained in account numbered 60246, this Award shall adjust the amount previously awarded in the Arbitration to reflect the amount the Claimant would have received under the Rules. In this case, the Account Owner held one custody account and one demand deposit account, numbered 60246. The Bank’s records indicate that both accounts existed in 1934, and that the custody account was closed sometime between 1934 and 1945, and then re-opened after 1945. The Bank’s records further indicate that the balance of the demand deposit account on 17 February 1945 was SF 5,406.50. Given that the custody account existed in 1934, that the Account Owners contacted the Bank for the last time in 1934, and that the custody account was closed before February 1945, the CRT assumes that the proceeds of the assets held in the custody account were credited to the demand deposit account before February 1945, and that the balance of the demand deposit account reflects the cumulated value of the custody account and the demand deposit account.

According to Article 29 of the Rules, if the amount in a custody account and a demand deposit account was less than SF 13,000.00 and SF 2,140.00 respectively, and in the absence of plausible evidence to the contrary, the amount in the accounts shall be determined to be SF 13,000.00 for a custody account and SF 2,140.00 for a demand deposit account. Thus, the total 1945 average value of a custody account and the demand deposit account is SF 15,140.00. The CRT notes that the Arbitration determined the adjusted historic value of the account to be SF 8,620.00. The difference between the historic value determined during the Arbitration and the average values for a custody and demand deposit account determined under the Rules is SF 6,520.00. The current value of this amount is determined by multiplying this difference by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 81,500.00.

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
18 August 2004