

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],
[REDACTED 3],
and [REDACTED 4]

in re Accounts of Max Lichtenstein

Claim Number: 224271/ES

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Max Lichtenstein (the “Account Owner”) 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 owner and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her maternal grandfather, Max Lichtenstein, who was born on 11 November 1890 in Langstadt, Germany, and was married to Jenny Lichtenstein, née Lazar, on 31 December 1925 in Saarwellingen, Germany. The Claimant stated that her grandfather, who was Jewish, was a French businessman who resided until 1935 at Garten Allé in Saarlouis in the Saarland.¹ The Claimant stated that on 19 January 1935 her grandfather fled to Luxembourg, and that on 4 May 1939, he fled from Europe to Brazil, where he arrived on 21 May 1939. The Claimant stated that her grandfather resided in São Paulo, Brazil, until his death on 12 April 1949. The Claimant stated that her grandfather’s first wife was [REDACTED], and that after her death he married Jenny Lazar. The Claimant stated that her grandfather had one son from his first marriage, [REDACTED], who was born on 6 June 1922 in Saarlouis and died on 19 September 1964 in São Paulo, and one daughter from his second marriage, [REDACTED], the Claimant’s mother, who was born on 22 October 1926

¹ The Saarland was under the administration of the League of Nations until 1 March 1935, at which time it was annexed by Nazi Germany.

in Saarbrücken, Germany, and who died on 10 October 1989 in São Paulo. The Claimant stated that her grandmother died on 31 December 1985 in São Paulo.

In support of her claim, the Claimant submitted her grandfather's birth and death certificates, his marriage certificate, indicating her grandfather, Max Lichtenstein, was married to Jenny Lazar, her grandmother's birth and death certificate, and her grandmother's Brazilian identity card, which contains her signature. The Claimant submitted her mother's marriage certificate and death certificate, indicating that Max and Jenny Lichtenstein were her mother's parents, and her own birth certificate, indicating that her mother was [REDACTED], and that her maternal grandparents were Max and Jenny Lichtenstein. The Claimant also submitted her grandfather's will, in which he bequeathed his assets to her grandmother, Jenny, her mother, [REDACTED], and her uncle, [REDACTED], in equal shares. The Claimant also submitted [REDACTED]'s will, in which she bequeathed one-half of her assets to her husband, [REDACTED 4], and one-half to her three children: [REDACTED 3], [REDACTED 1], and [REDACTED 2], to be distributed equally.

The Claimant stated that she was born on 4 June 1954 in São Paulo. The Claimant is representing her father, [REDACTED 4], who was born on 12 November 1922 in Germany; her sister, [REDACTED 3], née [REDACTED], who was born on 2 October 1956 in São Paulo; and her brother, [REDACTED 2], who was born on 2 March 1951 in São Paulo.

Information Available in the Bank's Records

The Bank's records consist of a custody account opening contract and a power of attorney form, both signed on 13 April 1938 in Luxembourg, a customer card, and printouts from the Bank's database. According to these records, the Account Owner was *Herr* (Mr.) Max Lichtenstein, and the Power of Attorney Holder was *Frau* (Mrs.) Jenny Lichtenstein, who resided at 4, rue de Nassau, Luxembourg, Luxembourg. The Bank's records indicate that the Account Owner held a custody account, numbered 41911, and a demand deposit account, which were both opened in April 1938.

The custody account was closed on 19 April 1939, and the demand deposit account was closed on 27 June 1940. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her maternal grandparents' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimant identified her grandparents' country of residence as Luxembourg, which matches published information about the Account Owner contained in the Bank's records.

In support of her claim, the Claimant submitted her grandfather's birth and death certificates, his marriage certificate, indicating her grandfather, Max Lichtenstein, was married to Jenny Lazar, and her grandmother's birth and death certificate. The Claimant also submitted her mother's marriage certificate and death certificate, indicating that Max and Jenny Lichtenstein were her mother's parents, and her own birth certificate, indicating that her mother was [REDACTED] and that her maternal grandparents were Max and Jenny Lichtenstein.

Finally, the Claimant submitted her grandmother's Brazilian identity card, which includes a sample of her grandmother's signature, which matches the signature sample of the Power of Attorney Holder contained in the Bank's records. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Power of Attorney Holder and did not identify the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and was forced to flee his home to avoid Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that the Account Owner was her grandfather by submitting documents, including her grandfather's birth certificate, his marriage certificate, his death certificate, and her own birth certificate, indicating that her mother was [REDACTED] and that her maternal grandfather was Max Lichtenstein.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the Account Owner resided in Luxemburg, and that the custody account was closed on 19 April 1939, which is prior to the Nazi occupation of Luxemburg on 10 May 1940. Accordingly, the CRT concludes that the Account Owner closed this account and received the proceeds.

With regard to the demand deposit account, the CRT notes that the Bank's records indicate that the account was closed on 27 June 1940, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 there is a sufficient probability that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, 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 Owner was her grandfather and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, or their heirs, received the proceeds of the demand deposit account.

Amount of the Award

In this case, the Award is for one demand deposit account. 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 present 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 demand deposit account was 2,140.00 Swiss Francs (SF). 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 26,750.00.

Division of the Award

According to Article 23(2)(b) of the Rules, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents. In this case, the Claimant submitted her grandfather’s will, in which he bequeathed his assets to her grandmother, Jenny, her mother, [REDACTED], and her uncle, [REDACTED], in equal shares. The Claimant also submitted her mother’s will, in which she bequeathed one-half of her assets to her husband, [REDACTED 4], and one-half to her three children: [REDACTED 3], [REDACTED 1], and [REDACTED 2]. In this case, the Claimant is representing her father, her brother, and her sister. Accordingly the Claimant’s father is entitled to one-half of the total award amount, and the Claimant and her brother and sister are each entitled to equal portions of the other half of the total award amount (one-sixth of the total award amount each).

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 her claim to determine whether there are additional Swiss bank accounts to

which she 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 November 2004