

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Hubert Geoffrey Lynfield,  
acting on behalf of himself and Hilde Lilienfeld-Lynfield

## **in re Account of Sidney Adolph Lilienfeld**

Claim Number: 205287/MB

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of Hubert Geoffrey Lynfield (the "Claimant"), acting on behalf of himself and his sister, Hilde Lilienfeld-Lynfield, to the Account of Sidney Adolph Lilienfeld (the "Account Owner") at the Basel branch of 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 is redacted.

### **Information Provided by the Claimant**

The Claimant submitted a Claim Form indicating that the Account Owner, Sidney Adolph Lilienfeld, was his father, who was born on 8 April 1876 in Frankfurt am Main, Germany, and married to Elsa Beatrice Frank. The Claimant stated that he and Hilde Lilienfeld-Lynfield are the only children of the Account Owner and that they were born in Frankfurt am Main on 8 February 1918 and 6 February 1914, respectively.

The Claimant identified his father as Jewish and a medical doctor who lived at Lessingstrasse 14 and Leerbachstrasse 10 in Frankfurt am Main between the years 1911 and 1939, when he emigrated to England where he died in 1943. The Claimant stated his father referred to deposits made in a Swiss bank account and provided a deposit code word. The Claimant also provided the name and address of an intermediary in Basel, Switzerland, used by his father for banking purposes. The Claimant provided a sample of his father's signature and copies of, among others, the following documents: his father's birth certificate, his father's death certificate and a mutual will by the Claimant's father and mother.

### **Information Available in the Bank Records**

According to the bank records, which consist of a letter to the Bank signed by the Account Owner dated 26 April 1935 and an account opening card, the Account Owner was Dr. Sidney Lilienfeld, who lived at Leerbachstrasse 10, Frankfurt,

Germany, as of 26 April 1935, and who held a custody account. The bank records indicate the account was opened on 29 September 1930. The bank records do not show if or when the Account was closed, or to whom the proceeds were paid, nor do they indicate the value of the 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 did not find the Account in the bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on the Account after 1945.

## **The Tribunal's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father's name matches the published name of the Account Owner. The Claimant has provided his father's precise street address in Frankfurt am Main before the Second World War, which exactly matches the unpublished address information contained in the bank documents. Moreover, the Claimant submitted documents demonstrating his father's occupation and contacts with the Bank's Basel branch, both of which match unpublished information contained in the bank documents.

### Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant has shown that the Account Owner, his father, was Jewish and lived in Germany until 1939, where he would have been targeted for persecution by the Nazi Regime because of his religion, and then fled to England.

### The Claimants' Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner is his father by providing documentation including copies of the Account Owner's birth certificate, an application by the Account Owner for life insurance from 1927, the Account Owner's death certificate, the Claimant's passport, the Claimant's birth certificate, a letter from the City of Frankfurt regarding the Account Owner, the will of the Account Owner and his wife, and an official army memorandum regarding the Claimant's change of name. The Claimant stated that his father's only other surviving heir is the Claimant's sister, whom the Claimant represents. The credibility of other information provided by the Claimant gives the Tribunal no basis to question this statement.

### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account was paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that

the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, if the funds were not in fact paid to the account owners or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds in this case went to the Nazis or to the Swiss bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds.<sup>1</sup> The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote one below, makes it unlikely that the Account Owner received the proceeds himself. The bank records show that the Account Owner sent a document to the Bank on 26 April 1935. The date on which the account was closed and the identity of the person who closed the account are unknown but there is nothing in the bank records to suggest that the account was closed before the Account Owner fled Nazi-occupied Germany to England in May 1939, where he died in 1943. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

#### Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant for the following reasons: the claim is admissible as the claimed Account belonged to a Victim of Nazi Persecution, and the Claimant has provided information establishing that his father is the Account Owner (a relationship that justifies making an award).

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<sup>1</sup> In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, [www.crt-ii.org](http://www.crt-ii.org).

### Amount of the Award

Pursuant to Article 35 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 ICEP Investigation in 1945, the average value of a custody account was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

According to Article 37(3) of the Rules, in cases where the amount in the account is not known, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this instance, 35% of the total award amount for the Account is 52,325.00 Swiss Francs.

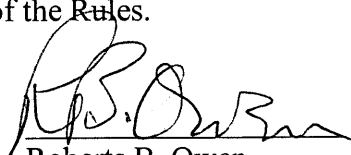
The Claimant is representing his sister in these proceedings. According to Article 29 of the Rules, his sister is entitled to receive one-half of any payment to the Claimant.

### **Certification of the Award**

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same accounts will be forthcoming. The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They therefore have instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a strong claim and that the risk of future competing claims is low, the Tribunal should prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a strong claim to the Account, thus substantially reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3) of the Rules.

27 Jan. 2002  
Date

  
Roberts B. Owen  
Senior Claims Judge