

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]

in re Accounts of Max Lindner

Claim Number: 500626/SJ

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of Max Lindner (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 paternal grandfather, Max Lindner, who was born on 19 July 1861 in Altenkunstadt, Germany, and was married to [REDACTED] on 7 May 1894 in Lichtenfels, Germany. The Claimant stated that her grandfather, who was Jewish, was a manufacturer and the owner of a business called *Gebriüder Lindner*, which produced mustard and vinegar that was sold throughout Bavaria. The Claimant further indicated that her grandfather lived and worked on Kulmbacherstrasse in Burgkunstadt, Germany, until 1938, when he was forced to sell his business. The Claimant indicated her grandfather had one son, [REDACTED] (the Claimant’s father), who was married to [REDACTED]. The Claimant stated that her grandfather died of a heart attack in Stuttgart, Germany, on 14 January 1940. Furthermore, the Claimant indicated that her grandmother, [REDACTED], was deported to Theresienstadt and then to Auschwitz, where she perished on 16 May 1944. Finally, the Claimant indicated that her father died in New York, New York, the United States, on 23 July 1968, and that her mother died on 1 September 1994 in New York.

In support of her claim, the Claimant submitted the birth certificate of [REDACTED], indicating that he was born in Burgkunstadt and that his father was Max Lindner; the Claimant’s father’s marriage certificate, indicating that Heinrich Lindner resided in Burgkunstadt; the Claimant’s own birth certificate, indicating her father was [REDACTED]; the birth certificate of the Claimant’s sister, [REDACTED 2], née [REDACTED], indicating that her father was

[REDACTED]; the death certificate of the Claimant's mother, [REDACTED]; and a handwriting sample of Max Lindner.

The Claimant indicated that she was born on 13 May 1930 in Coburg, Germany. The Claimant is representing her sister, [REDACTED 2], who was born on 27 June 1933 in Burgkunstadt.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Max Lindner who resided in Burgkunstadt in Bavaria, Germany. The Bank's record indicates that the Account Owner held a custody account, numbered L41615, and a demand deposit account. The Bank's record indicates that the custody account was opened on 30 November, but the year is not legible. 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") indicated that the custody account was opened on 30 November 1934. According to the Bank's record, the custody account was closed on 16 December 1938. The amount in the custody account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the custody account and received the proceeds themselves.

The Bank's record further indicates that the demand deposit account was closed on 20 December 1932. The amount in the demand deposit account on the date of its closure is not known.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name and country of residence match the published name and country of residence of the Account Owner. The Claimant also identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. In support of her claim, the Claimant submitted documents, including [REDACTED]'s birth certificate, indicating that he was born in Burgkundstadt and that his father was Max Lindner, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and place of residence of the Account Owner. The CRT further notes that the name Max Lindner appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of 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, that he resided in Nazi Germany, and that his wife perished in Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include the birth certificate of the Claimant's father, [REDACTED], indicating that he was the son of Max Lindner, and the Claimant's own birth certificate, indicating that she is the daughter of [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

With respect to the custody account closed on 16 December 1938, given that the Account Owner died in 1940; that his wife perished in Auschwitz; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 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 Owner or his 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.

With respect to the demand deposit account, the Bank's record indicates that it was closed on 20 December 1932, which the CRT notes is before the Relevant Period. According to Article 46(20) of the Rules, the Relevant Period is defined as the period from 1 January 1933 to 31 December 1945. Further, according to Article 14 of the Rules, the CRT shall have jurisdiction to resolve claims to accounts of victims open or opened in Swiss banks during the Relevant Period. Consequently, the CRT does not have jurisdiction to adjudicate this account. The CRT notes, however, that the demand deposit account was closed before the Nazi party came to power in Germany in 1933, and concludes that the Account Owner was able to access and close the account.

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. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the custody account.

Amount of the Award

In this case, the Award is for one custody 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 current 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 (“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 162,500.00.

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 in equal shares by representation. In this case, the Claimant is representing her sister, [REDACTED 2]. Accordingly, the Claimant and her sister are each entitled to one-half of the total award amount.

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
10 December 2004