

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3]

in re Account Friederike Lissner

Claim Numbers: 212511/LH; 208184/LH;¹ 203637/LH²

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Friederike Lissner (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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her maternal aunt, Friederike Lissner, née Schneidemühl, who was born in January 1892 in Berlin, Germany, and was married to [REDACTED] in Berlin. Claimant [REDACTED 1] indicated that Friederike Lissner, who was Jewish, resided in Berlin and that she had a stepson, [REDACTED], who was born in 1896 in Posen, Prussia (today, Poland). According to Claimant [REDACTED 1], her aunt’s husband, and [REDACTED]’s father, [REDACTED], died in approximately 1929

¹ Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted an additional claim which is registered under the claim number 212510. In a separate decision, the CRT awarded the account of Dr. Siegmund Lissner to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”). See *In re Account of Dr. Siegmund Lissner* (approved on 19 November 2003).

² Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) submitted an additional claim which is registered under the claim number 210897. In a separate decision, the CRT awarded the account of Max Eckstein to Claimant [REDACTED 2]. See *In re Account of Max Eckstein* (approved on 8 April 2004).

in Berlin. Claimant [REDACTED 1] further indicated that her aunt fled Nazi Germany for France in 1939 and that she subsequently resided in Paris, France, until she was deported to Auschwitz, where she perished. Finally, Claimant [REDACTED 1] stated that her aunt had two siblings, [REDACTED], née [REDACTED] (Claimant [REDACTED 1]'s mother), who died in May 1970, and [REDACTED], who died childless in September 1974.

In support of her claim, Claimant [REDACTED 1] submitted a letter written by “[REDACTED]” (which was the first name of her cousin, [REDACTED]), dated 25 September 1940, to “[REDACTED]” (which was the first name of Claimant [REDACTED 1]'s maternal uncle, [REDACTED]) in which he described, among other things, his internment by the Nazis, his time living in Berlin, Germany, and his escape to Avignon, France and later to Grenoble, France. The letter also mentions “[REDACTED],” which is a nickname for Claimant [REDACTED 1]'s mother's first name, [REDACTED], and includes greetings to “[REDACTED 1],” which is the first name of Claimant [REDACTED 1]. Finally, the letter mentions a person who had apparently accompanied [REDACTED] in his flight from Germany to France, and who added a few lines at the end of the letter, namely “Friedel,” which is a short form for various names, including the name “Friederike,”³ which is the name of Claimant [REDACTED 1]'s maternal aunt, Friederike Lissner.

Claimant [REDACTED 1] indicated that she was born on 18 January 1924 in Berlin.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted Claim Forms identifying the Account Owner as her mother-in-law, Friederike (Frieda) Lissner, née Sussmann, who was born on 6 July 1879 in Berlin, and was married to [REDACTED 3]. Claimant [REDACTED 2] indicated that her mother-in-law, who was Jewish, resided in Berlin, where her husband was a judge, and that she had two children: [REDACTED], who was born on 12 February 1905 in Berlin, and [REDACTED] (Claimant [REDACTED 2]'s late husband), who was born on 9 February 1908 in Berlin. Claimant [REDACTED 2] stated that her mother-in-law was deported on 14 December 1942 to Theresienstadt, where she perished. According to Claimant [REDACTED 2], her sister-in-law, [REDACTED], died on 14 November 1951 in the United States and her husband, [REDACTED], died on 3 August 1998 in Israel.

In support of her claim, Claimant [REDACTED 2] submitted copies of various documents, including: (1) her husband's birth certificate, indicating that [REDACTED] was born on 9 February 1908 to [REDACTED 3] and Frieda Lissner, née Sussman; (2) her mother-in-law's certificate of inheritance, dated 17 December 1953, indicating that *Frau* (Mrs.) Frieda Lissner, née Sussmann, who was born in Berlin and whose date of death was deemed to be 31 December 1945, had two children, [REDACTED], who never married and who died on 14 November 1951 in the United States, and [REDACTED], and naming these children as her heirs in equal shares; (3) an inheritance document, dated 17 December 1953, relating to the estate of her sister-in-law, noting that [REDACTED] was the sole heir of the estate of [REDACTED], who died on 14

³ The CRT notes that the name Friedel, which can be used by males or females, is a short form of names with Fried- or Frieda- in them (such as Elfriede, Friederike and Friedrich). See: <http://german.about.com/library/blvornamen04.htm>.

November 1951; (4) her late husband's will, dated 14 November 1990, indicating that his mother was Frieda Lissner, who was born on 6 July 1879 in Berlin, and that he bequeathed all of his assets to his wife, [REDACTED 2], née [REDACTED] (Claimant [REDACTED 2]); (5) her late husband's certificate of inheritance negotiations (*Erbscheinsverhandlung*), dated 16 April 1999, indicating that [REDACTED], who was born on 9 February 1908 in Berlin and who died on 3 August 1998 in Israel, was married to [REDACTED 2], née [REDACTED] (Claimant [REDACTED 2]), with whom he had a son, [REDACTED 3], and that his wife was the sole heir of his estate.

Claimant [REDACTED 2] indicated that she was born on 7 July 1923 in Vienna, Austria. Claimant [REDACTED 2] is representing her son, [REDACTED 3], who was born on 11 February 1957 in Kiryat Shmone, Israel.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Friederike Lissner, who resided in Berlin, Germany. The Bank's record indicates that the Account Owner held a demand deposit account, which was closed on 30 August 1934. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s aunt's name and country of residence and Claimant [REDACTED 2]'s mother-in-law's name and country of residence each match the published name and country of residence of the Account Owner.⁴ The Claimants identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. The Claimants also each identified Lissner as their relative's married name, which is consistent with the Account Owner's unpublished title of "*Frau*."

⁴ The CRT notes that Claimant [REDACTED 2] gave the spelling of her mother-in-law's surname as Friedericke rather than Friederike and provided documents referring to a Frieda Lissner. The CRT notes that Friedericke is a related name to Friederike and that Frieda is a short form of Friederika / Friedericka: See <http://german.about.com/library/blvornamen04.htm>.

In support of her claim, Claimant [REDACTED 2] submitted documents, including her husband's birth certificate; her mother-in-law's certificate of inheritance; and her late husband's will and certificate of inheritance negotiations, providing independent verification that the person who is claimed by Claimant [REDACTED 2] 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 city of residence of the Account Owner.

In support of her claim, Claimant [REDACTED 1] submitted a letter from [REDACTED] dated in 1940 which mentions a "Friedel" with whom he had apparently fled to France. The CRT notes that it is plausible that the letter was from [REDACTED], Claimant [REDACTED 1]'s cousin, and that the Friedel referred to was Friederike Lissner, [REDACTED]'s stepmother, who was by this time a widow, and concludes that the letter thereby provides independent verification that the person who is claimed by Claimant [REDACTED 1] to be the Account Owner had the same first name recorded in the Bank's record as the first name as the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Friederike Lissner, and indicates that her date of birth was 26 January 1892, that her place of birth was Berlin, and that she was married at the time of her death in 1942 in Auschwitz, which matches the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Friederike Lissner 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 further notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner fled Nazi Germany for France and that she was subsequently deported to Auschwitz, where she perished. Claimant [REDACTED 2] stated that the Account Owner resided in Nazi Germany and that she was deported on 14 December 1942 to Theresienstadt, where she perished. As noted above, a person named Friederike Lissner was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s aunt. The CRT further notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's record; and that she also identified information which matches information contained in the Yad Vashem records. The CRT further notes that Claimant [REDACTED 1] submitted a copy of a letter which the CRT has concluded was plausibly written by her cousin, [REDACTED], which mentions a "Friedel," which, as stated above, the CRT has concluded plausibly refers to Claimant [REDACTED 1]'s aunt, Friederike Lissner. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 2] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s mother-in-law. These documents include her mother-in-law's certificate of inheritance, indicating that [REDACTED] was Frieda Lissner's son; and her late husband's will and certificate of inheritance negotiations, indicating that [REDACTED] was married to [REDACTED 2], née [REDACTED] (Claimant [REDACTED 2]).

There is no information to indicate that the Account Owner has surviving heirs other than the party whom Claimant [REDACTED 2] is representing.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that both persons who have been plausibly identified as the Account Owner remained in Germany until at least 1939, and would not have been able to repatriate their accounts to Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owner's account to her; that the Account Owner's heirs would not have been able to obtain information about her 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 (a), (h) and (j), as provided in Article 28 of the Rules (see Appendices A and C), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her aunt, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her mother-in-law, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Further, with respect to Claimant [REDACTED 2]'s claim, the CRT notes that Claimant [REDACTED 2], as the Account Owner's son's sole heir, has a better entitlement to the account than represented party [REDACTED 3], the Account Owner's grandson.

Amount of the Award

In this case, the Account Owner held 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 current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of ICEP (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 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each of the Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half of the Award amount.

With respect to the one-half portion of the Award designated to Claimant [REDACTED 2], according to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case Claimant [REDACTED 2] is representing her son, whose grandmother was the Account Owner. Claimant [REDACTED 2] submitted a copy of the Account Owner's certificate of inheritance, which states that her children, [REDACTED] and [REDACTED], were her sole heirs; a copy of an inheritance document relating to the estate of [REDACTED], naming her brother, [REDACTED], as her sole heir; and a copy of her late

husband's will and certificate of inheritance negotiations, stating that Claimant [REDACTED 2] was his wife and the sole beneficiary of his estate. Accordingly, Claimant [REDACTED 2] is entitled to the whole of this portion of the award, or one-half of the total award amount. As noted above, represented party [REDACTED 3] is not entitled to share in the award.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 December 2007