

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 Account of Lucie Offenheimer

Claim Number: 401480/NP¹

Award Amount: 490,180.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Lucie Offenheimer (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 his great-grandmother, [REDACTED], née [REDACTED], who was born on 25 October 1868 in Munich, Germany, and was married to [REDACTED] in Stuttgart, Germany. The Claimant indicated that his great-grandparents had two children: [REDACTED], née [REDACTED] (the Claimant’s maternal grandmother), and [REDACTED]. In addition, the Claimant indicated that his great-grandmother, who was Jewish, was widowed in 1930. Moreover, the Claimant indicated that his great-grandmother resided at Liebigstrasse 51 in Frankfurt am Main, Germany, until 1938. The Claimant indicated that in November 1938, shortly after the Night of Broken Glass pogrom (*Kristallnacht*), his great-grandmother fled Germany together with her daughter [REDACTED] and her son-in-law, [REDACTED]. The Claimant indicated that his great-grandmother lived in London, England until 1942, and then joined her daughter in San Francisco, California, the United States. The Claimant further indicated that [REDACTED] and [REDACTED] had two daughters, including [REDACTED], née [REDACTED], the Claimant’s mother. According to the Claimant, his great-grandmother passed away on 16 March 1964 in San Francisco,

¹ The Claimant submitted one additional claim, which is registered under the Claim Number 401538. The CRT will treat this claim in a separate determination.

[REDACTED] passed away on 2 December 1986 in San Francisco, and [REDACTED] passed away in San Francisco on an unknown date.

In support of his claim, the Claimant submitted documents, including [REDACTED]'s German passport, issued on 27 August 1937, indicating that she was born as [REDACTED] on 28 July 1890 in Frankfurt am Main, and resided in Okriftel am Main, Germany; the Claimant's own birth certificate and those of [REDACTED 2], [REDACTED 3], and [REDACTED 4], indicating that they were all born to [REDACTED] and [REDACTED], née [REDACTED], who was born in Frankfurt am Main; a death notice in an unidentified newspaper, dated 16 March 1964, announcing Lucie Offenheimer's death, and indicating that she was survived by her children, [REDACTED] and [REDACTED], as well as by three grandchildren, including [REDACTED], and four great-grandchildren; a death notice from *The Northern California Jewish Bulletin*, dated 19 December 1986, indicating that [REDACTED], daughter of a wealthy merchant and widow of [REDACTED], had passed away, and was survived by two daughters, [REDACTED] and [REDACTED], and by four grandchildren. The Claimant indicated that he was born on 1 January 1947 in San Francisco. The Claimant is representing his siblings, [REDACTED 2], [REDACTED 3], and [REDACTED 4], who were born on 13 March 1948, on 1 December 1951, and on 11 February 1956, respectively, all in San Francisco.

Information Available in the Bank's Records

The CRT notes that 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") did not report an account belonging to Lucie Offenheimer during their investigation of the Bank. The documents evidencing an account belonging to Lucie Offenheimer, which are further described below, were obtained from archival sources in Germany.

Information Available from the German Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Regional Tax Office in Berlin,² there are documents concerning the assets of Lucie Offenheimer, numbered [REDACTED].

These records indicate that Lucie Offenheimer, née [REDACTED], who was born on 25 October 1868, was widowed by the time her asset declaration was filed in 1938. The records also indicate that Lucie Offenheimer previously resided at Liebigstrasse 51 in Frankfurt am Main, Germany, and in Okriftel am Main, Germany, but that she was residing in London, England, as

² These documents have since been moved to the Federal Office for Central Services and Unresolved Property Issues, Restitution Archive: Documents from the Nazi Era (*Bundesamt für zentrale Dienste und offene Vermögensfragen, Rückerstattungsarchiv: Archivalien aus der NS Zeit*).

of November 1938. In addition, the records indicate that Lucie Offenheimer owned a quarter of the company *Cellulosefabrik Ph. Offenheimer Okriftel a. M.*, and that, as of 30 June 1937, her ownership share was worth 702,021.82 Reichsmark (“RM”). According to these records, the company was sold on 21 June 1938 for RM 3,650,000.00. The records indicate that 25 percent of the purchase price, or Lucie Offenheimer’s share, equaled RM 912,500.00. A follow-up statement, which values Lucie Offenheimer’s assets as of 12 November 1938, prepared by [REDACTED], an attorney acting on her behalf, and dated 14 December 1938, indicates that Lucie Offenheimer, together with the other two owners, [REDACTED] and [REDACTED], sold the company to *Archo-Schreibmaschinen-Fabrik*, located in Neumünster, Germany. The follow-up statement further indicates that, as part of the sales contract, the three sellers agreed to extend a RM 3,000,000.00 *Sperrmarkkredit* loan to the buyer, which was approved by the Minister of the Economy (*Reichs- und Wirtschaftsminister*) on 15 July 1938. According to the terms of the contract, the sellers were to transfer the full amount of the loan to the bank account of the purchaser, but would receive only 40 percent in repayment, in installments spread over five to eight years and starting three years after the loan had been extended in full. The repayment was made dependent upon the buyer achieving satisfactory export receipts. Therefore, the loan was deemed to be a liability, reducing the available liquid assets of the sellers and, as such, recognized in a special order of the Minister of Finance (*Reichsminister der Finanzen*), dated 26 January 1939, granting relief of payment of the atonement tax (*Judenvermögensabgabe*).

These records also contain documents indicating that Lucie Offenheimer owned a custody account at the Bank. According to these records, the account was valued at RM 12,088.00 as of 27 April 1938, and contained the following bonds and stocks:

- a) 4% *Bayer. Hyp. Bk. Pfdbr.* bonds with a total nominal value of RM 200.00, a market value of RM 204.00 on 27 April 1938, and sold for RM 202.00 on 28 October 1938;
- b) 6% *I.G. Farben Obl.* bonds with a total nominal value of RM 6,000.00, a market value of RM 7,830.00 on 27 April 1938, and sold for RM 7,270.00 on 25 October 1938;
- c) shares of *Deutsche Bank*, valued at RM 1,924.00 on 27 April 1938, and sold for RM 1,889.00 on 25 October 1938;
- d) shares of *AEG*, valued at RM 378.00 on 27 April 1938, and sold for RM 363.00 on 25 October 1938; and
- e) shares of *Rheinmetall-Borsig*, valued at RM 1,752.00 on 27 April 1938, and sold for RM 1,613.00 on 25 October 1938.

The records indicate that these securities were sold by the *Bankhaus Alwin Steffan*, Frankfurt am Main, and that the proceeds in the amount of RM 11,758.00 were transferred to a blocked account at that bank.³

The records further indicate that a foundation located in Klosters, Switzerland, the *Philipps-Stiftung*, which was listed among the assets of Lucie Offenheimer with a value of 17,511.00 Swiss francs (“SF”) as of 1 January 1938, was to be liquidated and the proceeds transferred to

³ The CRT notes that there is a discrepancy between the reported October 1938 market value of the securities held by Lucie Offenheimer at the Bank (RM 11,337.00 Reichsmark) and the amount of the proceeds from the sale of these securities, which was credited to Lucie Offenheimer’s account at *Bankhaus Alwin Steffan* (RM 11,758.00).

Germany (“*Stiftung wird aufgelöst; Guthaben wird eingeführt*”). The list of assets including this remark was stamped by the tax authorities (*Finanzamt*) of Frankfurt am Main-Höchst on 31 October 1938. The aforementioned follow-up statement to Lucie Offenheimer’s 1938 Census declaration prepared by Dr. Fritz Mertens indicates that the *Philipps-Stiftung* was sold on 9 November 1938 to the Frankfurt office of the Reichsbank (*Reichsbankhauptstelle Frankfurt a. M.*) for SF 18,000.00, and that the proceeds were deposited into the same blocked account at the [REDACTED] in Frankfurt as the proceeds of the securities listed above.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s great-grandmother’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s birth date, street address in Frankfurt, the names of her son,⁴ her son-in-law, and of her granddaughter,⁵ and indicated that she fled to London in November 1938, which matches unpublished information about the Account Owner contained in the 1938 Census records.

In support of his claim, the Claimant submitted documents, including a death notice, dated 16 March 1964, announcing Lucie Offenheimer’s death, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the 1938 Census records as the name of the Account Owner. The CRT notes that there are no other claims to this account.

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 that she fled Germany for England in November 1938, after the *Kristallnacht*.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant’s great-grandmother. These documents include the Claimant’s birth certificate, indicating that he was born to [REDACTED] and [REDACTED], née [REDACTED] and a death notice, dated 16 March 1964, indicating that [REDACTED] was the mother of [REDACTED], and the grandmother of [REDACTED]. The CRT notes that the Account Owner’s 1938 Census records also identify [REDACTED], the Claimant’s mother, as the daughter of [REDACTED], née [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs, other than the parties whom the Claimant is representing, who have submitted a claim.

⁴ The CRT notes that “[REDACTED]” and “[REDACTED]” are sufficiently similar to render it plausible that they are variations of the same name, particularly in light of the other consistencies between the information provided by the Claimant and that specified in the 1938 Census records.

⁵ The CRT notes that “Traude” and “Trudy” are common nicknames for the name “Gertrude.”

The Issue of Who Received the Proceeds

The 1938 Census records indicate that the securities held by the Account Owner in the custody account at the Bank were transferred to Germany and were subsequently sold by a German bank, and the proceeds from their sale deposited into a blocked account. In addition, the 1938 Census records indicate that the *Philipps-Stiftung*, a Swiss foundation owned by the Account Owner, was sold to the Reichsbank, and the proceeds from the sale deposited into the same blocked account.⁶ The facts of this case are similar to other cases that have come before the CRT in which Jewish residents or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the custody account and the Swiss foundation in the 1938 Census; that the Account Owner lived in Nazi Germany until she fled to England in November 1938, and therefore could not have repatriated the account or the foundation assets without losing ultimate control over the proceeds; that the securities in the account were sold by a German bank in October 1938, and the proceeds deposited into a blocked account in Germany that the Account Owner was unable to access; that the foundation was sold in November 1938, and the proceeds from its sale deposited into the same blocked account; and given the application of Presumptions (d) and (h), 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 and foundation 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 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 his great-grandmother, and that relationship justifies 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.

⁶ The CRT notes that the Swiss foundation was not formally "deposited" in Switzerland, but was rather located there. In awarding the assets of this foundation, the CRT relies on the definition of "Deposited Assets" in the Settlement Agreement, which includes "...any and all Assets that the ICEP or the Claims Resolution Tribunal determines should be paid to a particular claimant or to the Settlement Fund because the Asset definitely or possibly belonged to an individual, corporation, partnership, sole proprietorship, unincorporated association, community, congregation, group, organization, or other entity (including, without limitation, their respective heirs, successors, affiliates and assigns) actually persecuted by the Nazi Regime for any reason." In this case, the foundation, which was based in Klosters, was targeted because it was wholly owned by the Account Owner, who was Jewish. The Account Owner's 1938 Census declaration clearly indicates that its assets, likely including its endowment capital, were reported to the Nazis and that the Account Owner was forced to dissolve the foundation and pay the assets to the Nazi Regime. The CRT notes that the foundation's underlying assets must have been deposited at a bank or with a trustee in Switzerland prior to their transfer to Germany.

Amount of the Award

In this case, the Account Owner held one custody account at the Bank, and a Swiss foundation, the *Philipps-Stiftung*. With regard to the custody account, the 1938 Census records indicate that the value of the account as of 27 April 1938 was RM 12,088.00, which was equivalent to SF 21,214.44.⁷ The CRT notes that the securities were sold by a German bank for a lesser amount in October 1938. The CRT further notes that it is plausible that the Account Owner had lost control of the securities at that time, since there is no indication in the 1938 Census records that the sale was conducted at the behest of the Account Owner and since the sale proceeds were deposited into a blocked account in Germany, which the Account Owner was unable to access. The CRT therefore uses the market value of the securities as stated for the valuation date of the 1938 Census, which is the last known date that the Account Owner had control over her account. The CRT additionally notes that the market value stated in the 1938 Census records is above the securities' nominal value. With regard to the *Philipps-Stiftung*, the 1938 Census records indicate that the foundation was liquidated for SF 18,000.00 on 9 November 1938. The combined total of the value of the securities in the custody account and the *Philipps-Stiftung* is therefore SF 39,214.44. The current value of the amount of the award is determined by multiplying the total historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 490,180.50.

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 who have submitted a claim, in equal shares by representation. In this case, the Claimant is the great-grandson of the Account Owner, and is representing his three siblings. Accordingly, the Claimant and his siblings, [REDACTED 2], [REDACTED 3], and [REDACTED 4], are each entitled to one-fourth 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 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
28 June 2006

⁷ The CRT uses official foreign exchange rates in calculating currency conversions.