

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], [REDACTED 2]
and [REDACTED 3]

**in re Accounts of *Lincoln Menny Oppenheimer, Frankfurt am Main*
and *Lincoln Menny Oppenheimer, Limited, London***

Claim Numbers: 221712/MG, 221713/MG, 500435/MG

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together “the Claimants”) to the accounts of *Lincoln Menny Oppenheimer, Frankfurt am Main*, (the “Frankfurt Account Owner”) and *Lincoln Menny Oppenheimer Limited, London*, (the “London Account Owner”) (together “the Account Owners”) at 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

The Claimants submitted Claim Forms identifying the Account Owners as two branches of a bank founded by Lincoln Menny Oppenheimer, Claimant [REDACTED 1]'s husband's paternal grandfather and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s paternal great-grandfather, who was born in approximately 1866 in the United States and was married in approximately 1890 in Frankfurt, Germany to [REDACTED], née [REDACTED], with whom he had one child, [REDACTED], Claimant [REDACTED 1]'s father-in-law, and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s paternal grandfather, who was born in Frankfurt in 1893. The Claimants explained that Lincoln Menny Oppenheimer was Jewish, that he resided at Grillparzerstrasse 45 in Frankfurt, and that he came from a prominent family who had long been involved in the banking industry in Frankfurt and in other European cities. The Claimants further explained that Lincoln Menny Oppenheimer founded *Bankhaus Lincoln Menny Oppenheimer* in 1883 and that following his death in 1907 in Frankfurt, the firm fell under the management of Lincoln Menny Oppenheimer's brothers, [REDACTED] and [REDACTED], who, applying banking experience they gained in the

United States, expanded the firm's traditional banking business into United States bonds and international arbitrage. According to the Claimants, a branch of the bank was eventually opened in London following Hitler's rise to power, prior to the confiscation and liquidation of the firm's German-based assets on 30 March 1938 by the Nazis. The Claimants stated that Lincoln Menny Oppenheimer's wife, [REDACTED], fled Nazi Germany in 1939 to San Francisco, California, where she died in 1945.

The Claimants indicated that [REDACTED], Lincoln Menny Oppenheimer's son, was married to [REDACTED], née [REDACTED], with whom he had one child, [REDACTED] ("[REDACTED]"), who was Claimant [REDACTED 1]'s husband, and Claimant [REDACTED 2]'s and Claimant [REDACTED 3]'s father. The Claimants stated that [REDACTED] was born in Frankfurt on 5 June 1920 and was first married to [REDACTED], née [REDACTED], in Melbourne, Australia on 12 November 1944, with whom he had one child, Claimant [REDACTED 3], née [REDACTED]. The Claimants explained that after their father's divorce from his first wife, he married Claimant [REDACTED 1] on 5 June 1971, with whom he had two children: Claimant [REDACTED 2] and [REDACTED], who was born on 24 August 1973. The Claimants further explained that during the Second World War, [REDACTED] fled to London, England, and eventually to Australia, where she died in 1973. According to the Claimants, [REDACTED] was sent to a boarding school in England in 1935 to avoid Nazi persecution and, in 1940, was deported to Australia where he was interned as a prisoner of war because he was a German national. The Claimants explained that after his release, [REDACTED] joined the Australian army in 1942, and died in Sydney, Australia on 22 October 1987.

In support of their claims, Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted [REDACTED]'s birth certificate, identifying his father as [REDACTED] of Frankfurt am Main, Germany; the marriage certificate of Claimant [REDACTED 1], identifying her husband as [REDACTED]; Claimant [REDACTED 2]'s birth certificate, identifying his parents as [REDACTED] and [REDACTED 1], née [REDACTED]; [REDACTED]'s death certificate, identifying his parents as [REDACTED] and [REDACTED], his first wife as [REDACTED], his second wife as [REDACTED 1], and his children as [REDACTED 3], [REDACTED] and [REDACTED 2]; [REDACTED]'s will; the marriage certificate of [REDACTED], identifying [REDACTED]'s parents as Lincoln Menny Oppenheimer and [REDACTED], née [REDACTED], and their city of residence as Frankfurt am Main, Germany; the will of [REDACTED], identifying her husband as Lincoln Menny Oppenheimer, her daughter-in-law as [REDACTED], and her grandson as [REDACTED]; and an extract from the book *Jüdische Privatbanken in Frankfurt am Main* (Jewish Private Banks of Frankfurt am Main), which indicates that Lincoln Menny Oppenheimer's family can be traced back to 1531 in Frankfurt, that many prominent people in the finance industry came from this family, and that the Oppenheimer family was known as one of the foremost among Frankfurt's Jewish families.

In support of her claim, Claimant [REDACTED 3] submitted her birth certificate, identifying her parents as [REDACTED] and [REDACTED], née [REDACTED]; her mother's Declaration of Acquisition of British Nationality, identifying her mother's husband as [REDACTED]; the divorce certificate of [REDACTED] and [REDACTED],

née [REDACTED], dated 25 September 1953; and the will of [REDACTED].

Claimant [REDACTED 1] indicated that she was born on 1 September 1930 in Sydney, Australia, Claimant [REDACTED 2] indicated that he was born on 26 June 1976 in Hornsby, Australia, and Claimant [REDACTED 3] indicated that she was born on 3 February 1947 in Sydney.

Information Available in the Bank's Records

The Bank's records consist of account registry cards, internal bank memoranda, letters of correspondence between the Bank and the Frankfurt Account Owner, excerpts from the Bank's ledgers, and printouts from the Bank's database.

According to these records, the Account Owners were *Lincoln Menny Oppenheimer, Frankfurt am Main*, and *Lincoln Menny Oppenheimer, Limited, London*. The Bank's records indicate that the Frankfurt Account Owner was a banking firm, which was privately owned as of 7 March 1925 by [REDACTED], [REDACTED] and [REDACTED], and whose business address was Neue Mainzerstrasse 68, Frankfurt am Main, Germany. The Bank's records further indicate that the London Account Owner was also a banking firm whose correspondence address was in the care of Messieurs Linklaters & Paines, 2 Bond Court, Walbrook, London, England.

The Bank's records show that the Frankfurt Account Owner held a custody account, numbered 8034, and that the London Account Owner held a custody account, numbered 39373. The Bank's records indicate that the custody account numbered 8034 was opened no later than March 1918, that it was originally assigned the number 12261, and that its number changed to 8034 on 18 February 1937. The Bank's records do not indicate when the custody account numbered 39373 was opened.

The Bank's records indicate that the Frankfurt Account Owner and the Bank had regular business contacts and that the Frankfurt Account Owner had a credit line with the Bank. The Bank's records also contain two letters from the Bank to the Frankfurt Account Owner, dated 2 March 1925 and 28 March 1925, indicating that the Bank would extend a line of credit of 500,000.00 Swiss Francs to the Frankfurt Account Owner, and a letter from the Bank to the Frankfurt Account Owner, dated 3 January 1929, indicating that the Bank was not interested in purchasing four different types of bonds offered to the Bank by the Frankfurt Account Owner.

Moreover, the Bank's records contain a letter from the Bank to the Frankfurt Account Owner, dated 21 February 1928, which refers to two demand deposit accounts owned by the Frankfurt Account Owner, to one of which the Bank credited an amount of 332.00 Swiss Francs pursuant to the Frankfurt Account Owner's request of 20 February 1928. The Bank's records indicate that one of the demand deposit accounts was opened in February 1928 for the purpose of a specific transaction, but does not indicate the opening date of the other demand deposit account. Finally, the Bank's records indicate that the Frankfurt Account Owner was liquidated on or before 4 April 1938.

According to the Bank's records, the custody account numbered 39373, the London bank account, was closed on 31 January 1936, and the custody account numbered 8034, the Frankfurt bank account, was closed on 9 May 1938. The amount in the custody accounts and the dates of their closures are unknown. There is no evidence in the Bank's records that the owners of the Frankfurt Account Owner and the London Account Owner, or their heirs closed the accounts and received the proceeds themselves.

The Bank's records do not show when the two demand deposit accounts were closed, or to whom they were paid, nor do the records indicate the value of these accounts. 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 find the demand deposit accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the owners of the Account Owner or their heirs closed the demand deposit accounts 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 (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 Owners

The Claimants have plausibly identified the Account Owners. *Lincoln Menny Oppenheimer's* name and the location of its office in Frankfurt am Main match the published name and location of the Frankfurt Account Owner. The Claimants identified London as another of *Lincoln Menny Oppenheimer's* bank locations, which matches unpublished information about the London Account Owner contained in the Bank's records. Additionally, the Claimants identified [REDACTED] as one of the owners of *Lincoln Menny Oppenheimer* and indicated that *Lincoln Menny Oppenheimer's* German-based assets were liquidated in 1938, which matches unpublished information about the Frankfurt Account Owner contained in the Bank's records. Finally, Claimant [REDACTED 1] identified *Lincoln Menny Oppenheimer* as a bank on the list of accounts published by the ICEP on 5 February 2001 (the "ICEP List"), despite the fact that the account was incorrectly published as a person rather than as a business entity.

In support of their claims, Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted [REDACTED]'s birth certificate, identifying [REDACTED]'s father as [REDACTED] of Frankfurt am Main, Germany; the marriage certificate of Claimant [REDACTED 1], identifying her husband as [REDACTED]; Claimant [REDACTED 2]'s birth certificate, identifying his parents as [REDACTED] and [REDACTED 1], née

[REDACTED]; [REDACTED]'s death certificate, identifying his parents as [REDACTED], his first wife as [REDACTED], his second wife as [REDACTED 1], and his children as [REDACTED 3], [REDACTED] and [REDACTED 2]; [REDACTED]'s will; the marriage certificate of [REDACTED], identifying [REDACTED]'s parents as Lincoln Menny Oppenheimer and [REDACTED], née [REDACTED], and their city of residence as Frankfurt am Main, Germany; the will of [REDACTED], identifying her husband as Lincoln Menny Oppenheimer, her daughter-in-law as [REDACTED], and her grandson as [REDACTED] and an extract from the book *Jüdische Privatbanken in Frankfurt am Main* (Jewish Private Banks of Frankfurt am Main) indicating that Lincoln Menny Oppenheimer came from one of Frankfurt's most prominent Jewish families, who had long been involved in the banking industry.

In support of her claim, Claimant [REDACTED 3] submitted her birth certificate, identifying her parents as [REDACTED] and [REDACTED], née [REDACTED]; her mother's Declaration of Acquisition of British Nationality, identifying her mother's husband as [REDACTED]; the divorce certificate of [REDACTED] and [REDACTED], née [REDACTED], dated 25 September 1953; and the will of [REDACTED].

The CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners had Jewish owners, that the Frankfurt Account Owner's assets were confiscated, and the Frankfurt Account Owner liquidated, by the Nazis in 1938.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners' founder and to one of the Account Owners' owners. The Claimants submitted specific biographical information and documents, including Claimant [REDACTED 2]'s and Claimant's [REDACTED 3]'s birth certificates; identifying their father as [REDACTED]; Claimant [REDACTED 1]'s marriage certificate, identifying her husband as [REDACTED]; [REDACTED]'s birth certificate, identifying his father as [REDACTED]; and [REDACTED]'s marriage certificate, identifying [REDACTED]'s parents as Lincoln Menny Oppenheimer and [REDACTED], née [REDACTED] of Frankfurt am Main. The CRT notes that the Claimants identified one of the unpublished owners of the Account Owners, [REDACTED], as the brother of the Account Owners' original owner, Lincoln Menny Oppenheimer. The CRT further notes that there were no claims to the accounts of [REDACTED] or [REDACTED], the other two unpublished owners of the Account Owners, as contained in the Bank's records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the owners of the Account Owners and the Account Owners were well known to the Claimants as family members and the family business, and all of this information supports the plausibility that the Claimants are related to the owners of the Account

Owners, as they have asserted in their three separate Claim Forms.

The Issue of Who Received the Proceeds

Regarding the custody account held by the London Account Owner, numbered 39373 and closed on 31 January 1936, the CRT has decided not to reach a decision at this time, pending further research into whether the London Account Owner received the proceeds of this account.

Regarding the custody account held by the Frankfurt Account Owner, numbered 8034 and closed on 9 May 1938; and the two demand deposit accounts held by the Frankfurt Account Owner and closed on an unknown date, given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; given that the Frankfurt Account Owner was liquidated in April 1938 and that the Frankfurt Owner's custody account was closed in May 1938; that there is no record of the closure date of the demand deposit accounts, that there is no record of the payment of the accounts to the owners of the Account Owners or their heirs; that the owners of the Account Owners and their heirs would not have been able to obtain information about the 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the owners of the Account Owners, 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that one of the owners of the Account Owners was their relative, and these relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the owners of the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case the Frankfurt Account Owner held one custody account and two demand deposit accounts. 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 and the average value of a demand deposit account was 2,140.00 Swiss Francs. Thus, the total average 1945 value of the accounts at issue is 17,280.00 Swiss Francs. 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 216,000.00 Swiss Francs.

Division of the Award

According to Article 25(2), in cases where the Joint Account Owner is claimed by relatives of only one or some of the Joint Account Owners, it shall be presumed that the Account was owned as a whole in equal shares by the Account Owner whose shares of the Account have been claimed. Given that the Bank's records indicate that one of the owners of the Frankfurt Account Owner was [REDACTED], and given that no claims have been submitted to the accounts of [REDACTED] or [REDACTED], the three accounts are presumed to have been owned in whole by [REDACTED].

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. The Claimants did not submit [REDACTED]'s will or other inheritance documents. As direct descendants of [REDACTED]'s parents, Claimant [REDACTED 2] and Claimant [REDACTED 3] are each entitled to one-half of the total award amount. As Claimant [REDACTED 1] is not a direct descendant of [REDACTED]'s parents, she is not entitled to any award amount.

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 claim 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
8 April 2004