

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets
Case No. CV96-4849

Certified Award

to Claimant [REDACTED]

in re Accounts of Max Lichtenstern and Ida Fuchs

Claim Numbers: 776678/ES; 789635/ES¹

Award Amount: 76,125.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Max Lichtenstern. This Award is to the published account of Max Lichtenstern (“Account Owner Lichtenstern”) and of Ida Fuchs (“Account Owner Fuchs”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank I”),² and the unpublished account of Account Owner Lichtenstern at [REDACTED] (“Bank II”) (together the “Banks”).³

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 two Initial Questionnaires (“IQs”) with the Court in 1999 identifying Account Owner Lichtenstern as her maternal uncle, Max Ernst Lichtenstern, who was born in 1895, and was married to [REDACTED]. The Claimant stated that her uncle, who was Jewish,

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaires (“IQ”), numbered ENG 0255 088 and ENG 0822 121, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim numbers 776678 and 789635.

² The CRT notes that, 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”), Max Lichtenstern is indicated as having two accounts and Ida Fuchs is indicated as having one account. Upon careful review, the CRT concludes that Bank I’s records indicate that Max Lichtenstern and Ida Fuchs jointly owned one account at Bank I.

³ The CRT notes that this account was not published on the ICEP List but was published by ATAG Ernst & Young on the July 1997 list of dormant Swiss bank accounts opened by non-Swiss individuals prior to the end of the Second World War.

resided at Gunduliceva 54, Zagreb, Yugoslavia (now Croatia) until 1938, when he moved to Teplice Sanov, Czechoslovakia (now Teplice, Czech Republic). The Claimant stated that her uncle deposited assets in Switzerland for her mother, Emma Polachek, née Lichtenstern, for her father, Rudolf Polachek, and for her aunt. The Claimant stated that her father died in 1941, that her aunt was killed while being deported to Theresienstadt, and that her uncle and grandfather, Josef Lichtenstern, were killed in Theresienstadt in 1943. The Claimant stated that she is the only survivor of her mother's family.

The Claimant indicated that she was born on 19 January 1924 in Zagreb.

Information Available in the Banks' Records

Bank I

Bank I's records consist of a joint account opening contract, signature samples and printouts from Bank I's database. According to these records, the Account Owners were *Frau* (Mrs.) Ida Fuchs, who resided in Gablonz, Czechoslovakia, and Max Lichtenstern, whose correspondence address was Postfach 8 (post office box 8) in Zagreb, Yugoslavia. Bank I's records indicate that the Account Owners held a time deposit account that was opened on 30 March 1935.

Bank I's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this 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 ("ICEP" or the "ICEP Investigation") did not find this account in Bank I's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

Bank II

Bank II's records were identified by Bank II in an internal audit. Bank II's records consist of signature samples, dated 14 September 1938, account statements between 1974 and 1981 and unanswered letters from Bank II addressed to Account Owner Lichtenstern, dated 1978 and 1981. According to these records, Account Owner Lichtenstern was Max Lichtenstern, whose correspondence address was Postfach 8 (post office box 8) in Zagreb, Yugoslavia. Bank II's records indicate that Account Owner Lichtenstern held a demand deposit account.

Bank II's records indicate that the amount in the account on 31 December 1974 was 925.00 Swiss Francs ("SF"), and that annual fees of SF 5.00 were charged to the account between 1974 and 1981, such that by 31 December 1981, the balance of the account had been reduced to SF 855.00. Bank II's records indicate that the account remains open and dormant.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant's uncle's name, city and country of residence match the published name, city and country of residence of Account Owner Lichtenstern.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Lichtenstern, and indicates that his place of residence was Zagreb, Croatia, which matches the information about Account Owner Lichtenstern provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different cities or countries of residence than the cities and countries of residence of the Account Owners.

The CRT further notes that the Claimant did not identify Account Owner Fuchs. However, given that Account Owner Fuchs had a different last name and resided in a different country than Account Owner Lichtenstern, the CRT concludes that Account Owner Fuchs was likely not related to Account Owner Lichtenstern, and may not have been known to the Claimant. Consequently, the CRT determines that the fact that the Claimant was unable to identify Account Owner Fuchs does not affect her identification of Account Owner Lichtenstern.

Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Lichtenstern.

Status of Account Owner Lichtenstern as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Lichtenstern was a Victim of Nazi Persecution. The Claimant stated that Account Owner Lichtenstern was Jewish, and that he was killed in Theresienstadt in 1943.

As noted above, a person named Max Lichtenstern was included in the CRT's database of victims.

The Claimant's Relationship to Account Owner Lichtenstern

The Claimant has plausibly demonstrated that she is related to Account Owner Lichtenstern by submitting specific information, demonstrating that Account Owner Lichtenstern was the Claimant's maternal uncle. The CRT notes that the Claimant identified information, which matches information contained in the Yad Vashem records. The CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Lichtenstern was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Lichtenstern, as she has asserted in her IQs. There is no information to indicate that Account Owner Lichtenstern has other surviving heirs.

The Issue of Who Received the Proceeds

Bank II's records indicate that the demand deposit account held by Account Owner Lichtenstern at Bank II remains open and dormant.

Bank I's records indicate that the time deposit account jointly held by the Account Owners at Bank I was closed on an unknown date.

Given that Account Owner Lichtenstern was killed in Theresienstadt in 1943; that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners' heirs would not have been able to obtain information about their accounts after the Second World War from Bank I 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 either 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 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 Account Owner Lichtenstern was her uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners jointly held a time deposit account at Bank I, which the CRT determines to be an account of unknown type, and Account Owner Lichtenstern held a demand deposit account at Bank II. 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 an account of unknown type was SF 3,950.00. 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 an amount of SF 49,375.00.

Bank II's records indicate that the value of the demand deposit account as of 31 December 1974 was SF 925.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 450.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1974. Consequently, the adjusted balance of the account at issue is SF 1,375.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the account is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 26,750.00.

Consequently, the total award amount is SF 76,125.00.

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 claims 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
12 May 2005