

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],
[REDACTED 4], [REDACTED 5], and [REDACTED 6]
represented by Jonathan James Palmer, *Mondex Corporation*

and to Claimant [REDACTED 7]
represented by Stefan Suter

in re Account of Julius Schindler

Claim Numbers: 402179/WT; 300783/WT

Award Amount: 211,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Julius Schindler and the claim of [REDACTED 7] (“Claimant [REDACTED 7]”) (together the “Claimants”) to the account of Siegfried Salzer, Julius Schindler and Samuel Schindler.¹ This Award is to the published account of Julius Schindler (the “Account Owner”), over which [REDACTED] (“Power of Attorney Holder [REDACTED]”) and [REDACTED] (“Power of Attorney Holder [REDACTED]”) (together the “Power of Attorney Holders”) held power of attorney at the Zurich branch of [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 his father, Julius Schindler, who was born on 30 May 1878 in Moravska Trebova (today in the Czech Republic), and was married to [REDACTED], née [REDACTED] on 2 April 1905. Claimant

¹ The CRT did not locate an account belonging to Siegfried Salzer or Samuel Schindler in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

[REDACTED 1] stated that his father, who was Jewish, lived from 1913 until 1932 in Hamburg, Germany, where he owned two companies, *Oelwerke Julius Schindler GmbH* and *Tankschiffreederei Julius Schindler GmbH*, which were confiscated by the Nazi regime in 1938 and 1939. Claimant [REDACTED 1] indicated that from 1938 until 1939 his father lived in Paris, France, and that in 1939 his father left Marseille, France, for Quebec, Canada. Claimant [REDACTED 1] indicated that his father died on 29 December 1941 in Great Neck, New York, the United States, and that his mother, [REDACTED], née [REDACTED], died on 27 July 1954 in Grasse, France. Claimant [REDACTED 1] further indicated that his sister, [REDACTED], formerly [REDACTED], née [REDACTED], was born on 27 March 1906 and died on 18 September 1999 in Haifa, Israel, and that his brother [REDACTED] was born on 20 March 1910 in Hamburg and died on 4 July 1988 in Cannes, France.

In support of his claim, Claimant [REDACTED 1] submitted copies of documents, including: (1) his father's will, indicating that Julius Schindler named his wife, [REDACTED], née [REDACTED], as his sole heir; (2) his father's death certificate, indicating that Julius Schindler died on 29 December 1941 in New York; (3) a petition to the probate court of Nassau County, New York, indicating that Julius Schindler's heirs were his wife [REDACTED], his daughter [REDACTED], and his sons [REDACTED] and [REDACTED 1]; (4) his mother's estate administration certificate, indicating that [REDACTED], née [REDACTED], died on 27 June 1954 and that her heirs, in equal shares, were her daughter [REDACTED], née [REDACTED], and her sons [REDACTED] and [REDACTED 1]; (5) a codicil to his mother's will, indicating that [REDACTED] appointed her son [REDACTED] as her executor, and made further provisions for the inheritance of her son [REDACTED 1] and daughter [REDACTED]; (6) his brother's marriage certificate, indicating that [REDACTED] married [REDACTED] on 30 June 1940 in Great Neck, New York; (7) his brother's will, indicating that [REDACTED] left his residual estate to his wife, [REDACTED 2]; (8) his brother's death certificate, indicating that [REDACTED] died on 4 July 1988 in Cannes, France; (9) his own birth certificate, indicating that [REDACTED 1] was born on 30 January 1920 in Hamburg to Julius Schindler and [REDACTED], née [REDACTED], and that they were Jewish; (10) his sister's birth certificate, indicating that [REDACTED] was born on 27 March 1906 in Hamburg to Julius Schindler and [REDACTED], née [REDACTED], and that they were Jewish; (11) his sister's will, indicating that [REDACTED], née [REDACTED], left all of her property to her daughter, [REDACTED 5], née [REDACTED]; (12) his sister's death certificate, indicating that [REDACTED] died on 18 September 1999 in Haifa, Israel; (13) his niece's birth certificate, indicating that [REDACTED] was born on 18 February 1926 in Zurich, Switzerland, and that her mother was [REDACTED], née [REDACTED]; and (14) his niece's change of name certificate, indicating that [REDACTED], who was the daughter of [REDACTED], changed her name to [REDACTED].

Claimant [REDACTED 1] indicated that he was born on 30 January 1920 in Hamburg. Claimant [REDACTED 1] is representing: his sister-in-law, [REDACTED 2], née [REDACTED], who was born on 17 December 1909 in Hamburg; the children of his brother [REDACTED], [REDACTED 3], née [REDACTED], who was born on 18 September 1941 in New York, and [REDACTED 4], née [REDACTED], who was born on 15 April 1945 in New York; and the children of his sister Anna, [REDACTED 5], née [REDACTED], who was born on 18 February

1926 in Zurich, Switzerland, and [REDACTED 6], who was born on 9 November 1929 in Hamburg.

Claimant [REDACTED 7]

Claimant [REDACTED 7], who is related to Claimant [REDACTED 1], submitted a Claim Form identifying the Account Owner as his great-uncle, Julius Schindler, who was the son of [REDACTED] and who lived in Hamburg, Germany.² Claimant [REDACTED 7] stated indicated that his great-uncle, who was Jewish, was the brother of Claimant [REDACTED 7]'s paternal grandfather, [REDACTED], who lived in Innsbruck, Austria. Claimant [REDACTED 7] stated that Julius Schindler was the owner of *Oelwerke Schindler*, a petroleum factory located in Hamburg. According to Claimant [REDACTED 7], Julius Schindler's son was [REDACTED], and [REDACTED]'s son, [REDACTED], was Claimant [REDACTED 7]'s father. Claimant [REDACTED 7] asserted that [REDACTED]'s brother-in-law, [REDACTED], (the husband of Claimant [REDACTED 7]'s paternal aunt) owned a Swiss bank account before he was deported in 1941 to Theresienstadt, where he perished.

In support of his claim, Claimant [REDACTED 7] submitted copies of: (1) a letter, dated in 1930, addressed from [REDACTED] to [REDACTED] of Innsbruck, referring to a Swiss bank account; (2) an excerpt from the Vienna register, indicating that [REDACTED] lived in Vienna and was married to [REDACTED], née [REDACTED]; (3) his uncle's certificate of citizenship, dated 26 January 1939, indicating that [REDACTED] resided in Vienna; and (4) a detailed family tree.

Claimant [REDACTED 7] indicated that he was born on 9 June 1925 in Innsbruck.

Information Available in the Bank's Records

The Bank's records consist of three power of attorney forms, a signature sample, and printouts from the Bank's database. According to these records, the Account Owner was *Herr* Julius Schindler. According to one power of attorney form, on 20 February 1934 the Account Owner granted power of attorney to *Frau* (Mrs.) [REDACTED]. No address is indicated for either the Account Owner or [REDACTED] on this form. On 13 December 1937, the Account Owner granted power of attorney to *Herr* (Mr.) [REDACTED] of Paris. On this form, the Account Owner wrote that he resided at 29 Avenue de l'Opéra in Paris, France. The third power of attorney form indicates that on an illegible date in 1938, the Account Owner granted power of attorney again to [REDACTED], who is now indicated as residing in Paris. The Bank's records, which include signature samples for the Account Owner and the Power of Attorney Holders, indicate that the Account Owner held one custody account and one account, the type of which is not indicated. The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts.

² The CRT notes that the Claimants submitted their claims separately, and that some of the details provided in their claims are not identical. However, given that the information provided by the Claimants is substantially similar, the CRT concludes that the Claimants are related and refer to the same Account Owner in their claims.

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 these 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 Account Owner, the Power of Attorney Holders or their heirs closed the 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, 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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants, who are related, have plausibly identified the Account Owner. Claimant [REDACTED 1]’s father’s name and Claimant [REDACTED 7]’s great-uncle’s name matches the published name of the Account Owner. Furthermore, the names of Claimant [REDACTED 1]’s mother and brother match the unpublished names of the Power of Attorney Holders. Claimant [REDACTED 7] also identified Power of Attorney Holder [REDACTED], which matches unpublished information contained in the Bank’s records. In support of his claim, Claimant [REDACTED 1] submitted documents, including his father’s will and death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank’s records as the name of the Account Owner. Claimant [REDACTED 1] also submitted a sample of his father’s signature, which matches the signature sample contained in the Bank’s records.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and Claimant [REDACTED 1] indicated that in 1938 and 1939, the Account Owner’s two companies were confiscated by the Nazi regime. Claimant [REDACTED 7] further stated that the Account Owner’s nephew was deported in 1941 to Theresienstadt, where he perished.

The Claimants’ Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]’s father and Claimant [REDACTED 7]’s great-uncle. These

documents include Claimant [REDACTED 1]’s birth certificate, indicating that [REDACTED 1] is the son of Julius Schindler, and a petition to the probate court of Nassau County, New York, indicating that [REDACTED 1] is the son and heir of Julius Schindler.

The CRT notes that Claimant [REDACTED 7] identified unpublished information about the Account Owner 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 Account Owner was well known to Claimant [REDACTED 7] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 7] is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank’s records do not show when the accounts at issue were closed. Given that there is no record of the payment of the Account Owner’s accounts to him nor any record of a date of closure of the accounts; 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, the Power of Attorney Holders, 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 Claimant [REDACTED 1] and the parties he represents. 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 his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 1] and represented parties [REDACTED 2] and [REDACTED 5], who have established an unbroken chain of wills from the Account Owner, have a better entitlement to the accounts than Claimant [REDACTED 7] and represented parties [REDACTED 3], [REDACTED 4], and [REDACTED 6].

Amount of the Award

In this case, the Account Owner held one custody account and one account of unknown type. 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”) and the average value of an account of

unknown type was SF 3,950.00, for a total of SF 16,950.00. 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 a total award amount of SF 211,875.00.

Division of the Award

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. Additionally, according to Article 23(2)(b) of the Rules, if none of the named beneficiaries has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents, pertaining to, the Account Owner.

In this case, Claimant [REDACTED 1] is representing his sister-in-law, [REDACTED 2], his nieces, [REDACTED 3], [REDACTED 4], and [REDACTED 5], and his nephew, [REDACTED 6]. Claimant [REDACTED 1] has submitted: (1) the Account Owner's will, indicating Julius Schindler named his wife [REDACTED] as his sole beneficiary; (2) [REDACTED]'s estate administration certificate, indicating that [REDACTED]'s heirs were [REDACTED], [REDACTED 1] and [REDACTED]; (3) [REDACTED]'s will, indicating that his heir was [REDACTED 2]; and (4) [REDACTED]'s will, indicating that her sole heir was [REDACTED 5].

Accordingly, Claimant [REDACTED 1] and represented parties [REDACTED 2] and [REDACTED 5] are each entitled to one-third of the total award amount. As noted above, Claimant [REDACTED 7] and represented parties [REDACTED 3], [REDACTED 4], and [REDACTED 6] are 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
17 March 2008