

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to Claimant [REDACTED 3]

in re Account of *Lincoln Menny Oppenheimer Limited, London*

Claim Numbers: 221712/HS; 221713/HS; 500435/HS¹

This Certified Denial 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2]”), and [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together “the Claimants”), to the published and unpublished accounts of *Lincoln Menny Oppenheimer, Frankfurt am Main* (the “Frankfurt Account Owner”) and *Lincoln Menny Oppenheimer Limited, London* (the “London Account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”). This Denial is to the unpublished account of the London Account Owner at the [REDACTED] (the “Bank”).

All denials are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 8 April 2004, the Court approved an award to the Claimants for one custody account and two demand deposit accounts owned by the Frankfurt Account Owner (the “April 2004 Award”), while reserving decision with regard to one custody account owned by the London Account Owner.

¹ In a separate decision, the accounts of *Lincoln Menny Oppenheimer, Frankfurt am Main* (the “Frankfurt Account Owner”) were awarded to Claimant [REDACTED 2] and Claimant [REDACTED 3]. Claimant [REDACTED 1] was determined to be not entitled to share in the award amount. See *In re Accounts of Lincoln Menny Oppenheimer, Frankfurt am Main and Lincoln Menny Oppenheimer Limited, London* (approved on 8 April 2004) (the “April 2004 Award”). The April 2004 Award reserved decision regarding the account of *Lincoln Menny Oppenheimer Limited, London* (the “London Account Owner”). This account is addressed in this decision.

In the April 2004 Award, the CRT determined that the Claimants plausibly identified the Account Owners as branches of a bank owned by their relatives; that the owners of the Account Owners were Victims of Nazi Persecution; and that it was plausible that neither the owners of the Account Owners nor their heirs received the proceeds of the Frankfurt Account Owner's accounts.

As noted in the April 2004 Award, the Bank's records did not contain any information regarding the values of the Frankfurt Account Owner's accounts. Therefore, pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the average value of the same or a similar type of account in 1945 was used. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. Thus, the total historical value of the Frankfurt Account Owner's accounts was calculated to be SF 17,280.00. The current value of this amount was calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total amount of SF 216,000.00 for the April 2004 Award.

As detailed in the April 2004 Award, the award amount was divided equally between Claimant [REDACTED 2] and Claimant [REDACTED 3], who are direct descendants of one of the owners of the Account Owner, as provided in Article 23(1)(d) of the Rules. As Claimant [REDACTED 1] is not a direct descendant of the parents of any of the owners of the Account Owners, she was not entitled to any share of the April 2004 Award.

This decision addresses the London Account Owner's custody account, upon which decision was reserved in the April 2004 Award.

Information Available in the Bank's Records

As described in the April 2004 Award, the Bank's records consist of account registry cards, internal bank memoranda, excerpts from the Bank's ledgers, and printouts from the Bank's database.

According to these records, the London Account Owner was *Lincoln Menny Oppenheimer Limited, London*. The Bank's records further indicate that the London Account Owner was a bank whose correspondence address was in care of *Messieurs Linklaters & Paines, 2 Bond Court, Walbrook, London, the United Kingdom*.

The Bank's records also describe the Frankfurt Account Owner as a bank, which was privately owned as of 7 March 1925 by Oscar Franklin Oppenheimer, Georg Lewandowsky and Max Morell, and whose business address was Neue Mainzerstrasse 68, Frankfurt am Main, Germany. As noted in the April 2004 Award, the Bank's records indicate that the Frankfurt Account Owner was liquidated on or before 4 April 1938.

The Bank's records indicate that the London Account Owner held a custody account, numbered 39373. The Bank's records do not indicate when custody account 39373 was opened, nor do they indicate the value of this account. The Bank's records indicate that this account was closed on 31 January 1936.

The Bank's records show that the Frankfurt Account Owner held a custody account, numbered 8034, which was opened no later than March 1918. Additionally, according to the Bank's records, the Frankfurt Account Owner's custody account was originally assigned the account number 12261, but the account number was changed to 8034 on 18 February 1937.² As detailed in the April 2004 Award, this custody account was closed on 9 May 1938. This custody account, along with two demand deposit accounts, was awarded to the Claimants in the April 2004 Award.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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.

Basis for the Denial

The Bank's records indicate that custody account 39373 was closed on 31 January 1936. However, the CRT notes that the Frankfurt Account Owner continued to conduct business with the Bank after 31 January 1936, as evidenced by the fact that the number of the custody account belonging to the Frankfurt branch of the bank was changed from 12261 to 8034 on 18 February 1937. Given that the owners of the Frankfurt Account Owner, who were the same as the owners of London Account Owner, continued to conduct business with the Bank after the London Account Owner's account was closed; and that the custody account of the Frankfurt Account Owner was not closed until 9 May 1938, over two years after the closure of the custody account of the London Account Owner; and that the Frankfurt Account Owner was not liquidated by the Nazis until 4 April 1938, the CRT concludes that the owners of the London Account Owner closed the custody account numbered 39373 and received the proceeds themselves.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the Claimants may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

² The evidence that account number 12261 was changed to 8034 consists of a stamp on the registry card for account number 12261, "*Diese Depotnummer darf nicht mehr verwendet werden*" ("This custody account number can no longer be used"), followed by the handwritten notations, "(8034) 18.2.37"; and a typed notation on the account registry card for account number 8034, "*frühere Depot No. 12261*" ("previously custody account number 12261").

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimants should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimants should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
17 December 2010