

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED]

to Claimant [REDACTED 2]

and

to Claimant [REDACTED 3]
also acting on behalf of [REDACTED]

in re Accounts of Charles Bloch

Claim Numbers: 216115/AY, 216868/AY, 216869/AY, 216949/AY, 217650/AY

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of [REDACTED], [REDACTED] and [REDACTED]; upon the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) to the accounts of [REDACTED] and [REDACTED]; and upon the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of [REDACTED].² This Award is to the accounts of Charles Bloch at the Basel branch of the [REDACTED] (the “Bank”). In this Award, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] are referred to collectively as the “Claimants.”

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 Owner, Charles Bloch, as the grandfather of Claimant [REDACTED 1] and Claimant [REDACTED 2] and the great-grandfather of Claimant [REDACTED 3]. The Claimants stated that Charles Bloch, who was

¹ In her claims, Claimant [REDACTED 1] is also acting on behalf of [REDACTED 3], who submitted a separate claim to the account of [REDACTED].

² The CRT will treat the claims to these accounts in separate decisions.

Jewish, was married to [REDACTED], who was not Jewish, and that they had four children: [REDACTED]; [REDACTED], née Bloch; [REDACTED], née Bloch, who was Claimant [REDACTED 1]'s mother and Claimant [REDACTED 3]'s grandmother; and [REDACTED], who was Claimant [REDACTED 2]'s father. During a telephone conversation with the CRT on 5 March 2003, Claimant [REDACTED 1] indicated that her grandfather was born in 1856 in Strasbourg, France, where he lived until he was approximately 14 years old when the family moved to Paris, France. The Claimants indicated that Charles Bloch lived at 82 Av. Niel, Paris 17e, France, and worked at the Stock Exchange as a broker (*coulissier*). According to the Claimants, Charles Bloch died in 1930 in Paris.

During the Second World War when the Nazis invaded France, Claimant [REDACTED 1] and her immediate family were forced to flee Paris. They fled first to Limoges and then to a small village named Lameize. After the Second World War, the family returned to Paris. Claimant [REDACTED 1] further stated that her uncle, [REDACTED], was caught by the Nazis and died in Bordeaux just before his deportation was scheduled. During a telephone conversation with the CRT on 21 October 2002, Claimant [REDACTED 2] indicated that she and her mother lived in Paris during the Nazi occupation of France, and that one of her cousins perished in a concentration camp. In a letter attached to her claim, Claimant [REDACTED 2] explained that because of her name and origins she was discriminated against, insulted, and threatened, but that she was never deported because her mother was not Jewish.

In support of her claim, Claimant [REDACTED 1] submitted her parents' marriage certificate, a family book, and an official document issued by the public notary containing the names of her family members. Claimant [REDACTED 1] stated that she was born on 15 March 1914 in Paris. Claimant [REDACTED 1] is representing [REDACTED 3], her nephew, who was born on 12 January 1930 in Paris. Claimant [REDACTED 1] is also representing [REDACTED], née [REDACTED], her niece, who was born on 12 April 1953 in Paris.

In support of her claim, Claimant [REDACTED 2] submitted documents, including her parents' family book, and her own marriage certificate. Claimant [REDACTED 2] stated that she was born in Paris on 2 December 1927.

In support of his claim, Claimant [REDACTED 3] submitted his parents' marriage certificate and family book containing the names of his family members. Claimant [REDACTED 3] stated that he was born on 12 January 1930 in Paris. Claimant [REDACTED 3] is representing his sister [REDACTED], née [REDACTED], who was born on 28 April 1933 in Paris.

Information Available in the Bank Records

The bank records consist of a list of account owners who resided in the Alsace-Lorraine region and printouts from the Bank's database. According to this record, the Account Owner was Charles Bloch, who resided at 5 Rue Herder, Strasbourg, France. The bank document indicates that the Account Owner held an account of an unknown type, numbered 33568. The bank records do not show when the account was opened or closed, nor do the records indicate the value of the 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 the Bank’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. There is no evidence in the bank record that the Account Owner or his heirs closed the account 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 three claims of Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3] in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants’ relative’s name and place of birth match the published name and city of residence of the Account Owner. The CRT notes that it previously awarded the Claimant the accounts of [REDACTED] and [REDACTED], the Account Owner's son and daughter-in-law, based on the Claimant's identification of unpublished information about [REDACTED] and [REDACTED]. The Claimant's ability to provide unpublished information on her relationship to [REDACTED] and [REDACTED] and of Account Owner's relationship to them supports the Claimant's identification of Charles Bloch, the father and father-in-law of [REDACTED] and [REDACTED], as 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 Claimants have made a plausible showing that their relative was a Victim of Nazi Persecution. The Claimants’ relative was Jewish, and although he died in Paris in 1930, his surviving family was forced to flee France when the Nazis invaded, and his son, [REDACTED], was captured by the Nazis and died in Bordeaux just before his scheduled deportation. Moreover, Claimant [REDACTED 1] stated that when the Nazis invaded France, her immediate family was forced to flee from Paris, and Claimant [REDACTED 2] indicated that she was insulted, discriminated against and threatened because she was Jewish.

The Claimants’ Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents indicating that he is the grandfather of Claimant [REDACTED 1] and Claimant [REDACTED 2] and the great-grandfather of Claimant [REDACTED 3].

The Issue of Who Received the Proceeds

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 Owner or his 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that the Account Owner was their grandfather, and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his great-grandfather, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of an 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

Division of the Award

According to the principles of distribution set forth in Article 23 of the Rules, children of Account Owners who have submitted a claim are entitled to equal shares of the Award. Where a child of the Account Owner is deceased, but that child's descendants are living and have submitted a claim, those descendants are entitled to equal portions of the deceased child's share of the Award. Accordingly, Claimant [REDACTED 2] is entitled to one-half of the award amount, and Claimant [REDACTED 1] and [REDACTED], who is represented by Claimant [REDACTED 1], are each entitled to receive one-sixth of the award amount. Claimant [REDACTED 3] and [REDACTED], his sister whom he is representing, are each entitled to one-twelfth of 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
April 21, 2003

**ARTICLE 28 OF THE RULES GOVERNING THE CLAIMS RESOLUTION PROCESS
(AS AMENDED)**

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . .", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).