

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Herbert Bobriker, Gaspard Valette and H. Loewy

Claim Number: 703692/WI^{1,2}

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Hertha Löwy. This Award is to the published account of Herbert Bobriker (“Account Owner Bobriker”), Gaspard Valette (“Account Owner Valette”) and H. Loewy (“Account Owner Loewy”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”).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 an Initial Questionnaire identifying Account Owner Loewy as her sister, Hertha Löwy, who was born on 7 November 1905 in Berlin, Germany and was married to [REDACTED]. The Claimant indicated that her sister, who was Jewish, resided at Kaiserstrasse 10 in Berlin prior to the Second World War. The Claimant further indicated that her sister was a masseuse at the Oscar Helene Heim, which still exists in Berlin at Clayalle 229, that she was financially well off, and that she would have substantial financial deposits. Finally, the Claimant

¹ Claimant [REDACTED] (the “Claimant”) submitted four additional claims, which are registered under the Claim Numbers: 703690, 703691, 703694 and 778223. The CRT will treat these claims in separate determinations.

² The Claimant did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0317-085, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 703692.

³ 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”), H. Loewy is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account.

indicated that during the Second World War her sister was deported to Auschwitz, where she perished in March 1943.

The Claimant indicated that she was born on 3 November 1921.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were Herbert Bobriker, who resided in Geneva, Switzerland, Gaspard Valette and *Frau* (Mrs.) H. Loewy, both of whom resided in Berlin-Charlottenburg, Germany. The Bank's record indicates that the Account Owners held a demand deposit account. The Bank's record indicates when the account was opened but the date is illegible. The Bank's record further indicates that the account was closed on 28 May 1934. The amount in the account on the date of its closure is unknown.

There is no evidence in the Bank's record that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's sister's name and country of residence match the published first initial and surname and country of residence of Account Owner Loewy.⁴ The Claimant identified Account Owner Loewy's gender and city of residence, which matches unpublished information about Account Owner Loewy contained in the Bank's record.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hertha Loewy and indicates that her date of birth was 7 November 1906 and place of birth was Berlin, and that she was deported to Auschwitz, where she perished in 1943, which substantially matches the information about the Account Owner 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 name H. Loewy appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

The CRT further notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Hertha Löwy, prior to the publication of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to

⁴ The CRT notes that "ö" is alternatively written "oe."

her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the Claimant did not identify Account Owner Bobriker and Account Owner Vallette. However, the CRT notes that the Claimant was a minor during the Second World War; that there is no indication in the Bank's record that the Account Owners were related, and therefore determines that it is plausible that the Claimant would not know the names of all of Account Owner Loewy's acquaintances and business associates, and that the Claimant's failure to identify Account Owner Bobriker and Account Owner Valette does not adversely affect the plausibility of her identification of Account Owner Loewy.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different cities and countries of residence than the cities and countries of residence of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Loewy.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Loewy was a Victim of Nazi Persecution. The Claimant stated that Account Owner Loewy was Jewish, that she resided in Nazi Germany and that she was deported to Auschwitz, where she perished in March 1943.

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

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to Account Owner Loewy by submitting specific information demonstrating that Account Owner Loewy was the Claimant's sister.

The CRT further notes that the Claimant identified unpublished information about Account Owner Loewy as contained in the Bank's record. The CRT also notes that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between Account Owner Loewy and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Loewy 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 Loewy, as she has asserted in her Claim Form.

There is no information to indicate the Account Owner Loewy has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 28 May 1934.

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that Account Owner Loewy fled Germany prior to her death in a concentration camp; that the Account Owners would not have been able to repatriate their account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their account 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendices A and C),⁵ the CRT concludes that it is plausible that the account proceeds were not paid to 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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that Account Owner Loewy was her sister, 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 account.

Amount of the Award

In this case, the Account Owners held one demand deposit account. 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 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 demand deposit account was 2,140.00 Swiss Francs ("SF"). 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 26,750.00.

⁵ Appendix C appears on the CRT II website at www.crt-ii.org.

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 claim 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
18 December 2007