

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jeannette Gyrath

in re Account of Louis Henry

Claim Number: 200258/AH¹

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claims of Jeannette Gyrath (the “Claimant”) to the account of Louis Henry (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms and supporting documentation identifying the Account Owner, Louis Henry, as her adoptive father. The Claimant stated that Louis Henry was a businessman, who resided at 65, Boulevard du Jubilé, Molenbeek Saint-Jean, Belgium. The Claimant stated that her adoptive father, who was Jewish, was a widower, had no children of his own, and that he adopted her after she had spent time living in a convent because her parents had been killed at Auschwitz. The Claimant submitted evidence of this adoption, enclosing a copy of a document issued on 6 June 1946 by the Family Court in Brussels. This document pertains to the temporary guardianship of a minor, Jeannette-Dora Berkowitsch, by Louis Henry, with the stipulation that the child practices the Jewish faith. The Claimant stated that her adoptive father had told her on many occasions of a Swiss bank account that had been opened in the Claimant’s name to provide for her education. The Claimant stated that her aunt had given her the same information after her adoptive father’s death in 1948. The Claimant stated that she was born on 16 May 1939 and that she was a young child during the Second World War, and was therefore unable to provide details about the account. The Claimant further stated that her biological parents were Chonon and Estera Berkowitsch, of Jewish faith, who lived at 64, Funneurs Street, Brussels, before they were deported to Auschwitz in June 1942.

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 200258 and 211293. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 200258.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, together with an ATAG Ernst & Young claim form, filed on 26 February 1998, asserting her entitlement to a Swiss bank account owned by Louis Henry.

Information Available in the Bank Record

The bank record consists of a printout from the Bank's database. According to this record, the sole Account Owner was Louis Henry. The bank records indicate that the Account Owner held an account of an unknown type. The account was suspended on 14 March 1947, and the amount on that date was 7.55 Swiss Francs. The account remains open and dormant.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Both the first name and surname of the Claimant's adoptive father match the published name of the Account Owner. In support of her Claim, the Claimant submitted information and documents regarding Louis Henry. The CRT notes that the bank records do not contain any specific information about the Account Owner, other than his name and country of residence. Thus, the additional information provided by the Claimant cannot be compared with the bank information.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Louis Henry, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (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 her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her adoptive father owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and submitted information indicating her family was persecuted by the Nazis. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Louis Henry who resided in Belgium, which 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 Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting a copy of a decision by the Brussels Family Court dated 6 June 1946, pursuant to which the Claimant was placed in the care of Louis Henry, who, it is indicated, was related to the Claimant through her father's side of the family. There is no information to indicate that the Account Owner has any other surviving heirs. According to the principles of distribution set forth in Article 29 of the Rules Governing the Claims Resolution Process (the "Rules"), if the Account Owner's spouse has not submitted a Claim, the Award shall be in favor of any descendants of the Account Owner who have submitted a Claim to the account. According to the Rules, the term "descendant" includes adopted as well as biological children of the Account Owner. In this case, since the Claimant established that the Account Owner was her adoptive father, and in the absence of any other competing Claims and evidence as to the existence of any heirs of Louis Henry, the Claimant is entitled to the entire amount of the Award.

The Issue of Who Received the Proceeds

The bank records indicate that the account remains open and dormant.

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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her adoptive father. 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

The bank records indicate that the value of the account as of 14 March 1947 was 7.55 Swiss Francs. In accordance with Article 37(1) of Rules, this amount is increased by an adjustment of 45.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1945 and 14 March 1947. Consequently, the adjusted balance of the account at issue is 52.55 Swiss Francs. According to Article 35 of the Rules, if the amount in an unknown type of account was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the Claimant shall be 35% of the Certified Award, and the Claimant may receive a second payment of up to 65% of the Certified Award, when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account value, and 35% of the total award amount is 16,590.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 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