

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of Eva Agathe Loewy, née Hirschfeld

in re Account of Eva Hirschfeld

Claim Number: 216457/LK¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Eva Hirschfeld (the “Account Owner”) at the [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 Claimant

The Claimant, who is representing his mother, submitted a Claim Form identifying the Account Owner as his mother, Eva Agathe Loewy, née Hirschfeld, who was born on 19 March 1917 in Berlin, Germany. The Claimant stated that his mother was married to [REDACTED] on 4 June 1936 in Berlin, and was divorced in 1947. The Claimant further stated that his mother married the Claimant’s father, [REDACTED] on 21 December 1947 in Melbourne, Australia. According to the Claimant, his mother, who is Jewish, lived at Taubenstrasse 23 in Berlin from 1917 to 1935 and then at Düsseldorfstrasse 5 in Berlin-Wilmersdorf from 1935 to 1936. The Claimant explained that his mother fled from Germany to Australia in 1938. In support of his claim, the Claimant submitted his mother’s German passport, dated and signed on 13 May 1935 in Berlin, identifying the Claimant’s mother as Eva Hirschfeld, at that time resident in Berlin. The Claimant stated that he was born on 27 January 1940 in Melbourne, Australia.

¹ The Claimant submitted two additional claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 216455 and 216456, respectively. The CRT will treat the claims to these accounts in separate decisions.

Information Available in the Bank's Records

The Bank's records consist of an account opening card and printouts from the Bank's database. According to these records, the Account Owner was *Frl.* (Miss) Eva Hirschfeld, who resided in Berlin, Germany. The Bank's records indicate that the Account Owner held a demand deposit account that was opened on 7 June 1933 and was closed on 29 July 1933. The Bank's records do not show to whom the account was paid or the value of this account. There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His mother's name matches the published name of the Account Owner. The Claimant identified his mother's city of residence and marital status in 1933, which matches unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his mother's German passport, which provides independent verification that the Account Owner's mother had the same name as the Account Owner listed in Bank records. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 lived in Germany under Nazi occupation until she fled to Australia.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that she is his mother.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner's account was closed in 1933 and she remained in Germany until 1938; she would not have been able to repatriate her account to Germany when it was closed without its confiscation; the Account Owner and her heirs would not have been able to obtain information about her 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 Bank's concern regarding double liability; and 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 Appendix A) and Appendix C,² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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. Second, the Claimant has plausibly demonstrated that the Account Owner was his mother and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner 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. 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 26,750.00 Swiss Francs.

Division of the Award

The Claimant is representing Eva Agathe Loewy, née Hirschfeld, the Account Owner herself. The Claimant’s mother has a better entitlement to the Award than the Claimant and thus she is entitled to the entire Award amount paid to the Claimant.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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).

² Appendix C appears on the CRT II website -- www.crt-ii.org.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
September 30, 2003