

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Alexander Laszlo

Claim Numbers: 600006/AA¹

Award Amount: 203,400.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Alexander Laszlo (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 previously submitted a claim to the Holocaust Claims Processing Office (“HCPO”) in June 1998 and an Initial Questionnaire with the Court in 1999 identifying the Account Owner as her maternal grandfather, Alexander Laszlo, who was born on 6 July 1883 in the Austro-Hungarian Empire and was married to [REDACTED], née [REDACTED], who was born in 1887 in Vienna. Alexander and [REDACTED] Laszlo had one child, the Claimant’s mother [REDACTED], who was born on 6 August 1908 in Hlohovec, Austria-Hungary.

The Claimant explained that before the Second World War, her grandfather was a self-employed importer-exporter and lived in Budapest, Hungary, Bratislava, Czechoslovakia and Vienna, Austria. The Claimant stated that the Nazis deported both of her grandparents to concentration camps during the Second World War. The Claimant’s grandfather was deported to Bergen-Belsen, but he survived and returned to Vienna in 1951, where he died in November 1954. The Claimant’s grandmother was deported to Theresienstadt, where she was killed. According to the Claimant, she hid from the Nazis in Czechoslovakia during the Second World War. The Claimant hid on a farm, and her mother was at an internment camp, where she served as a governess. In support of her claim, the Claimant submitted her mother’s certificates of birth and

¹ The Claimant submitted a claim, numbered B-01022, on 3 June 1998 to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600006.

marriage and her own birth certificate. The Claimant indicated that she was born on 20 March 1937 in Bratislava, Czechoslovakia.

Information Available in the Bank Records

The bank records consist of account ledgers and correspondence between the Bank and the HCPO. According to these records, the Account Owner was Alexander/Alex Laszlo of Budapest, and the Power of Attorney for one of the accounts was [REDACTED], née [REDACTED], who was the Account Owner's daughter. According to the bank records, Alexander Laszlo owned two accounts: one custody account, numbered 10858, and an account of unknown type, under the client number 1927. There is no information in the records indicating that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

According to the bank records, the custody account was opened on 24 or 26 March 1931. The bank records indicate that the account was closed on 11 October 1940. There is an additional handwritten ledger of safe custody accounts referring to account 10858 and under the date 30 August 1954 there is an illegible date in the Power of Attorney column. The bank records do not indicate to whom the account was paid, nor do these records indicate the value of this account.

The bank records indicate that the Account Owner held a second account of unknown type. According to these records, the Account Owner was Alexander Laszlo and the Power of Attorney Holder was [REDACTED], née [REDACTED], who were Czech nationals, and they were assigned customer number 1927 ("*Contremarque* 1927") with the Bank. The records for the account consist of an account card, which lists the Account Owner and Power of Attorney Holder with an "e" following each of their names. In a letter dated 11 May 2000, the Bank informed the HCPO that the "e" following their names indicated that both the Account Owner and the Power of Attorney Holder had authority to withdraw assets individually. The card is stamped "*ausgegangen Kontr. Nov. 1949*" and "*ausgegangen Kontrolle.*"

In a 9 August 2000 meeting with the HCPO and in a letter dated 28 September 2000, the Bank stated that they were unsure of the relationship between account 10858 and customer number 1927. They explained that typically a "*Contremarque*" such as 1927 referred to a numbered client relationship, which may or may not encompass numerous underlying accounts, and that 10858 was one such numbered account. Because [REDACTED], the Account Owner's daughter, is identified in the records for customer number 1927 as holding power of attorney over the account and/or accounts associated with that number, and because she is not identified as a power of attorney holder in the records regarding account number 10858, the CRT presumes that account number 10858 was not encompassed in this customer number, and that the Account Owner must have therefore held at least one other account at the Bank.

The bank records do not indicate to whom the account was paid, nor do these records indicate the value of this account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather's name matches the unpublished name of the Account Owner and the Claimant's mother's name matches the name of the Power of Attorney Holder. In support of her claim, the Claimant submitted documents, including bank records that were submitted by the Bank to the HCPO.

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 was deported to a concentration camp during the Second World War and that the Account Owner's wife was killed at Theresienstadt.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Alexander Laszlo and indicates that his date of birth was 6 July 1883, 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 documents including her mother's birth certificate, which shows the Account Owner was the father of [REDACTED], and her own birth certificate, which shows [REDACTED] is the Claimant's mother. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given the application of Presumptions (h) and (j) contained in Appendix A,² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, or their heirs. Based on its precedent and the Rules Governing the Claims Resolution Process (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.

² An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her grandfather, and that relationship justifies 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 accounts.

Amount of the Award

Pursuant to Article 35 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the value of an unknown type of account was 3,950.00 Swiss Francs, which equals a total of 16,950.00 Swiss Francs for Alexander Laszlo's two accounts. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 203,400.00 Swiss Francs.

Initial Payment

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 65% of the Certified Award, and the claimant may receive a second payment of up to 35% 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 65% of the total award amount is 132,210.00 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

December 31, 2002

APPENDIX A

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).