

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Wilhelm Lederer

Claim Number: 219874/AA

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of [REDACTED].¹ This Award is to the account of Wilhelm Lederer (the “Account Owner”) at the Basel branch of 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 submitted a Claim Form identifying the Account Owner as her brother, Wilhelm Lederer, who was born on 9 March 1901 in Usti Nad Labem (also known as Aussig), Czechoslovakia, and was married to [REDACTED] in the late 1920s. The Claimant stated that Wilhelm Lederer’s father was Jewish. The Claimant indicated that her brother had two children: [REDACTED], who was born in 1932; and [REDACTED], who was born in 1936. The Claimant stated that her brother was arrested by the Gestapo, was forced to leave his job in Czechoslovakia and went to Munich, Germany, where he died on 24 May 1971. In support of her claim, the Claimant submitted a detailed family tree and a copy of the affidavit certifying her name change from [REDACTED] to [REDACTED].

In a telephone conversation with the CRT on 3 April 2003, [REDACTED], Wilhelm Lederer’s son whom the Claimant represents, stated that his father did not leave Czechoslovakia until the Nazis invaded, and that on the day he attempted to leave, he was taken into custody by the Nazis and sent to prison. [REDACTED] indicated that his family assumed his father’s name appeared on some sort of targeting list, which resulted in his imprisonment. [REDACTED] explained that his father was not kept in prison long, but that upon his release he discovered that he had been

¹ The CRT has treated the claim to this account in a separate decision.

fired from his job as a chemist in a soap factory in Aussig, because he was labeled as “politically undesirable.”

According to [REDACTED], his father found a “Jewish job” in a small factory in Germany, where he worked until he was arrested in late 1944. [REDACTED] further explained that because his father was half-Jewish, he was to have been imprisoned in a work camp, but was not sent to a camp because he was ill at the time. [REDACTED] indicated that his father stayed in Goerlitz, Germany, until the end of the Second World War, when he returned to Czechoslovakia. [REDACTED] further indicated that his father left Czechoslovakia when the Communists took over the country and returned to Germany sometime prior to 1946.

[REDACTED] stated that his mother spoke of a bank account that his father opened in Switzerland in the late 1930s as a source of funds in the event the family had to flee. [REDACTED] stated that if his father opened an account, he probably would have opened it with the assistance of his brother-in-law, Friedrich Pollatschek. [REDACTED] further stated that his family spoke of accounts that his paternal grandfather opened on behalf of his sons ([REDACTED]’s father and uncle). [REDACTED] indicated that his mother recently suffered a stroke and is unable to communicate with him about these events.

The Claimant stated that she was born on 4 February 1902 in Usti Nad Labem and was married to Friedrich Pollatschek. The Claimant is representing [REDACTED] and [REDACTED], her nephews and the sons of Wilhelm Lederer.

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database. According to these records, the Account Owner was Wilhelm Lederer of Aussig, and the Power of Attorney Holder was Friedrich Pollatschek. The Bank’s records indicate that the Account Owner held an account of unknown type, numbered 38199, which was opened on 9 April 1936. The Bank’s records do not show when the account at issue was closed or to whom it was paid, nor do these records indicate the value of this 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’s records that the Account Owner, the Power of Attorney Holder or their 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. The names of her brother and her husband match the unpublished names of the Account Owner and the Power of Attorney Holder. In addition, the Claimant identified her brother's city of residence, which matches information about the Account Owner contained in the Bank's records. The CRT notes that there are no other claims to this account.

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, was arrested by the Gestapo and was forced to quit his job in Czechoslovakia.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that the Account Owner was her brother. The CRT notes that the Claimant stated that her brother has two children, [REDACTED] and [REDACTED], whom she represents in this matter.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which account owners are first detained by Nazi authorities for a relatively short time, are then released and flee the country, and their Swiss accounts are transferred to Nazi-controlled banks or are closed unknown by whom. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis and the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds in this case were not paid to the Account Owner, the Power of Attorney Holder or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in determining 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 her brother, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of 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 current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The current 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 Award

According to Article 23(1) of 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, in equal shares by representation. In this case, the Claimant is representing [REDACTED] and [REDACTED], who are the Account Owner's sons and therefore his direct descendants. According to the Rules, direct descendants have better entitlement than descendants of the Account Owner's parents. Accordingly, [REDACTED] and [REDACTED] are each entitled to one-half of the total award amount.

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
June 23, 2003