

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Mario Levi

Claim Number: 600219/WM¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of [REDACTED].² This Award is to the unpublished account of Mario Levi (the “Account Owner”) at the [REDACTED] (the “Bank”).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 submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as his father, Davide Mario Levi, who was born on 27 February 1896 in Venice, Italy, and was married to [REDACTED], née [REDACTED], who was born on 16 April 1911. The Claimant indicated that his father, who went by the name Mario Levi, resided in Milan, Italy, prior to and during the Second World War. In addition, the Claimant indicated that his father was a Colonel in the army. The Claimant stated that his father, who was Jewish, had two brothers, [REDACTED] and [REDACTED]. The Claimant indicated that his paternal uncle, [REDACTED], resided at Via Procaccini 23 in Milan, where he also owned and operated an antique shop at Via San Andrea 14, which was forcibly closed by the Nazis when he was arrested on 30 October 1943. The Claimant stated that his uncle was detained at San Vittore

¹ The Claimant submitted a claim, numbered B-01046, on 12 March 1997, 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 600219.

² The CRT did not locate an account belonging to the Claimant’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

prison in Milan and later deported to Auschwitz, where he perished. According to the Claimant, his father's relatives traveled frequently to Switzerland, where they deposited money in Swiss bank accounts. The Claimant explained that his father returned to Venice after the Second World War, and that he lived there until his death on 15 October 1990.

According to the Claimant, his father attempted on numerous occasions to obtain information from Swiss banks about accounts belonging to his relatives, but was unsuccessful. The Claimant submitted two letters written to his father by the *Banque Nationale Suisse* and *Banque Cantonale Neuchateloise*, dated 24 June 1940 and 4 July 1940, respectively, stating that they were unable to provide him with any information regarding his inquiries without a power of attorney granted in his favor.

In support of his claim, the Claimant submitted numerous documents, including copies of the Claimant's father's birth certificate, dated in 1896 in Venice, indicating that his father was Davide Mario Levi, the son of [REDACTED] and [REDACTED]; the Claimant's paternal uncle's birth certificate, dated in 1892 in Venice, indicating that his uncle was [REDACTED], the son of [REDACTED] and [REDACTED]; the passport of the Claimant's paternal uncle, [REDACTED], dated in 1940, documenting his uncle's journeys between Switzerland and Italy; a letter dated in 1945, addressed to the Claimant's father in Milan and identifying him as Colonel Mario Levi, from the American Joint Distribution Committee-Intergovernmental Committee on Refugees, which stated that they were unsuccessful in tracing the whereabouts of the Claimant's uncle, [REDACTED]; a page from the book, *Il Libro Della Memoria*, indicating that the Claimant's paternal uncle, [REDACTED], was arrested on 30 October 1943 in Milan and deported to Auschwitz, where he perished; and a certificate issued by the municipality of Milan in 1947, indicating that the Claimant was born to Davide Mario Levi and [REDACTED]. The Claimant stated that he was born on 16 April 1940 in Milan.

The Claimant previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED].³

Information Available in the Bank's Record

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 submit any records from the Bank relating to the account of Mario Levi. The only available record is the report prepared by the auditors who carried out the ICEP Investigation. According to this record, the Account Owner was Mario Levi, who resided in Albizzate, Italy. This record indicates that the Account Owner held a demand deposit account, numbered 1114, which was closed on 19 December 1940. The amount in the account on the date of its closure was 1.60 Swiss Francs ("SF").

There is no evidence in the record submitted by the auditors that the Account Owner or his heirs closed the account and received the proceeds themselves.

³ As noted above, the CRT did not locate an account belonging to the Claimant's relative, [REDACTED], in the Account History Database prepared pursuant to the ICEP Investigation.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and country of residence match the unpublished name and country of residence of the Account Owner. The CRT notes that the Claimant indicated that his father resided in Milan, while the ICEP auditors reported that the Account Owner resided in Albizzate. However, the CRT further notes that Albizzate and Milan are approximately 50 kilometers apart, and determines that it is plausible that the Claimant's father and/or his family may have had connections to towns near Milan of which the Claimant may be unaware.

In support of his claim, the Claimant submitted documents, including the American Joint Distribution Committee-Intergovernmental Committee on Refugees reply letter of 1945, which identifies the Claimant's father as Mario Levi and indicates that he resided in Milan, providing independent verification that the person who is claimed to be the Account Owner had the same name and country of residence reported by the auditors who carried out the ICEP Investigation as the name and country of residence of the Account Owner.

The CRT also notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his paternal uncle, [REDACTED], prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant had reason to believe that his relatives owned Swiss bank accounts prior to the publication of the ICEP List and supports the credibility of the information provided by the Claimant. Furthermore, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a city of residence more distant to that of the Account Owner, and stated specifically that his family never lived in any other city but the city he identified in his claim form. 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 that he resided in Nazi-allied Italy during the Second World War. Furthermore, the Claimant stated that his family's property was destroyed by the Nazis in 1943, and submitted an excerpt from the book, *Il Libro Della Memoria*, indicating that the Account Owner's brother, [REDACTED], was arrested on 30 October 1943 in Milan and later deported to Auschwitz, where he perished.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was his father. These documents include a certificate issued by the municipality of Milan, stating that the Claimant's parents were Davide Mario Levi and [REDACTED].

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi-allied Italy; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his 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; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his 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 father, and that relationship justifies an Award. Third, 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

In this case, the Account Owner held a demand deposit account. The auditors who carried out the ICEP Investigation reported that the value of the demand deposit account as of 19 December 1940 was SF 1.60. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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.

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).

Certification of the Award

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

Claims Resolution Tribunal
21 September 2005