

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Carl Levy

Claim Numbers: 215249/ZP¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Carl Levy (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 Form identifying the Account Owner as her maternal grandfather, Carl Levy, who was born on 3 October 1866 in Beckrath, Germany, and was married to [REDACTED], née [REDACTED], in 1899 in Würzburg, Germany. The Claimant stated that [REDACTED] was born on 11 March 1877. The Claimant stated that her grandparents had two children, the Claimant’s uncle, [REDACTED], who was born on 15 March 1901 in Beckrath and the Claimant’s mother, [REDACTED], née Levy, who was born on 26 February 1911 in Uerdingen, Krefeld, Germany. According to the Claimant, her grandfather, who was Jewish, was a retail furniture merchant who worked at *Ueronger Moebel und Bettenhaus*, which was located at Bruchstrasse 6 in Uerdingen, where he also lived for the majority of his married life. The Claimant stated that her grandfather also resided for a few months at Leyental Strasse 51 in Krefeld. The Claimant further stated that sometime in 1939, her grandfather fled Germany to Australia. The Claimant stated that her grandmother died on 7 September 1937 in Dusseldorf, Germany, and that her grandfather died on 10 September 1956 in Melbourne, Australia. The Claimant further stated that her uncle, [REDACTED], died on 19

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 215248. See In re Accounts of [REDACTED] (approved on 23 June 2003).

May 1962 in Melbourne. In support of her claim, the Claimant submitted her grandfather's will, which identifies the Claimant as his granddaughter and sole heir, and a family tree. The Claimant indicated that she was born on 13 December 1946 in Melbourne to [REDACTED] and [REDACTED], née [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of an account opening card. According to this record, the Account Owner was Carl Levy, who resided in Uerdingen am Rhein, Germany. The Bank's record indicates that the Account Owner held a custody account and a demand deposit account. The custody account was closed on 18 August 1933. The amount in the account on its date of closure is unknown.

With respect to the demand deposit account, the Bank's record does not show when the account was closed, or to whom it was paid, nor does this record indicate the value of the 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 record that the Account Owner or his heirs closed either account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather's name matches the published name of the Account Owner. The Claimant identified her grandfather's city of residence as Uerdingen, Germany, which matches unpublished information about the Account Owner contained in the Bank's record. In support of her claim, the Claimant submitted her grandfather's will, in which he identifies the Claimant as his granddaughter and sole heir. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name and place of residence. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different cities of residence than the city of residence of the Account Owner. 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 fled from Germany to Australia in 1939.

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 grandfather.

The Issue of Who Received the Proceeds

With respect to the custody account closed on 18 August 1933, 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 remained in Germany until 1939, when he fled to Australia, and would not have been able to repatriate his account to Germany without its confiscation at the time that the account was closed; 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 his heirs.

With respect to the demand deposit account closed on an unknown date, given that the Account Owner remained in Germany until 1939 when he fled to Australia; that there is no record of the payment of the Account Owner's accounts to him or his heirs; that the Account Owner or 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 (a), (h) and (j), as provided in Article 28 of the Rules and Appendix C, 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 Account Owner Carl Levy 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.

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

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs and the average value of a custody account was 13,000.00 Swiss Francs. Thus, the total 1945 average value of the two accounts was 15,140.00 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 189,250.00 Swiss Francs.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Account Owner's will leaves his entire estate to his granddaughter, the Claimant. Consequently, the Claimant is entitled to receive 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
19 November 2003