

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Elfried Kasy

in re Accounts of Otto Levy and Helene Levy

Claim Number: 707193/AH¹

Award Amount: 325,000.00 Swiss Francs

This Certified Award is based upon the claim of Elfried Kasy, née Sommerfeld, (the “Claimant”) to the account of Elfried Kasy and to the accounts of Otto Levy.² This Award is to the published account of Otto Levy (“Account Owner Otto Levy”), over which Leo Levy (the “Power of Attorney Holder”) and Helene Levy held power of attorney, and to the published account of Helene Levy (“Account Owner Helene Levy”) (together “the Account Owners”), over which Account Owner Otto Levy held power of attorney, both at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying Account Owner Otto Levy as her maternal uncle, Otto Levy. The Claimant indicated that her uncle, who was Jewish, resided on Kaiserstrasse in Kaiserslautern, Germany. The Claimant further indicated that her uncle owned a toothbrush factory in St. Gallen, Switzerland, and deposited money in a Swiss bank in St. Gallen. In October 2004, the CRT attempted to contact the Claimant for additional information about her relative and her relative’s family members, but was unable to contact her.

¹ Elfried Kasy did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered FRE 0004 025, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 707193.

² The CRT did not locate an account belonging to the Elfried Kasy, née Sommerfeld, 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 her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

The Claimant stated that she fled Kaiserslautern on 28 March 1939 to Metz, France, where her grandfather lived. The Claimant further stated that her parents were deported to Auschwitz in 1943. The Claimant indicated that she was born on 20 September 1923 in Kaiserslautern.

Information Available in the Bank's Records

The Bank's records consist of two power of attorney forms signed on 1 May 1929 in Zurich, Switzerland, and on 14 May 1929 in Kaiserslautern, Germany, and printouts from the Bank's database. According to these records, the Account Owners were Otto Levy and his wife Helene Levy, who each held a custody account,³ and who held power of attorney over each others' accounts. The Bank's records indicate that the additional Power of Attorney Holder over the account of Account Owner Otto Levy was his son, Dr. Leo Levy. In addition, the Bank's records indicate that the Account Owners resided on Kaiserstrasse 41a in Kaiserslautern.

The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts.

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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

There is no evidence in the Bank's records that the Account Owners, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Otto Levy. The Claimant's uncle's name, and city and country of residence match the published name, city and country of residence of Account Owner Otto Levy. The Claimant also identified her uncle's street address, which matches unpublished information about Account Owner Otto Levy's street address contained in the Bank's records.

The CRT notes that the name Otto Levy appears only once on the February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List").

³ The Bank's records contain two power of attorney forms that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although these power of attorney forms therefore do not necessarily demonstrate that the Account Owners held custody accounts, in the absence of evidence to the contrary, the CRT concludes that it is plausible that they each held such an account.

The CRT also notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Otto Levy, prior to the publication of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT further notes that the other claims to these accounts were disconfirmed because those claimants provided different spouse's and children's names, and a different city and/or country of residence than that of Account Owner Otto Levy.

The CRT notes that the Claimant did not mention Account Owner Helene Levy or Power of Attorney Holder Leo Levy in her IQ. However, given that the Claimant was able to identify unpublished address information about Account Owner Otto Levy contained in the Bank's records and that the Bank's records indicate that Account Owner Helene Levy and Power of Attorney Holder Leo Levy were the wife and son of Account Owner Otto Levy, the CRT concludes that the Claimant has nevertheless also plausibly identified Account Owner Helene Levy and Power of Attorney Holder Leo Levy.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner Otto Levy was a Victim of Nazi Persecution. The Claimant stated that Account Owner Otto Levy was Jewish, and that he resided in Nazi Germany.

The CRT notes that it does not have information about Account Owner Helene Levy's status as a Victim of Nazi Persecution, as it was unable to contact the Claimant for additional information. However, given that the Bank's records indicate that Account Owner Otto Levy and Account Owner Helene Levy were husband and wife, the CRT concludes that Account Owner Helene Levy was also a victim or target of Nazi persecution.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Otto Levy by submitting specific information, demonstrating that Account Owner Otto Levy was the Claimant's uncle.

The CRT further notes that the Claimant identified unpublished information about Account Owner Otto Levy as contained in the Bank's records; and that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Otto Levy was well known to the Claimant as a family member,

and all of this information supports the plausibility that the Claimant is related Account Owner Otto Levy, as she has asserted in her IQ.

As indicated above, the CRT notes that the Claimant did not identify Account Owner Helene Levy and the Power of Attorney Holder in her IQ. However, the Claimant has plausibly demonstrated that she is related to Account Owner Otto Levy, whom the Bank's records indicate was the husband of Account Owner Helene Levy. Consequently, the CRT finds that the Claimant has also plausibly demonstrated that she is related to Account Owner Helene Levy.

There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owners resided in Nazi Germany; that there is no record of the payment of the Account Owners' accounts to them nor any record of a date of closure of the accounts; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 Owners, the Power of Attorney Holder, or their 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 Owners were her uncle and aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two custody accounts. 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 custody account was 13,000.00 Swiss Francs ("SF"). Thus, the total 1945 average value of the accounts at issue is SF 26,000.00. 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 325,000.00.

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 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
18 November 2004