

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹
represented by [REDACTED]

to Claimant [REDACTED 2]

and to the Estate of Claimant [REDACTED 3]²

in re Account of David Liebermann

Claim Numbers: 004802/NB; 211187/NB; 213683/NB; 213685/NB; 213686/NB^{3, 4}

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of David Liebermann (the “Account Owner”) held at the Zurich 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 claimants, any relatives of the claimants other than the Account Owner, and the bank have been redacted.

¹ The CRT was informed on 2 March 2007 that [REDACTED 1] (“Claimant [REDACTED 1]”) passed away on 29 March 2002.

² Claimant [REDACTED 3]’s son, [REDACTED], informed the CRT on 12 June 2007 that his father passed away in May 2007.

³ In her Claim Form, Claimant [REDACTED 1] provided her name and those of her relatives only in Hebrew. For the purpose of this written decision, the CRT has transliterated these names into Latin characters. However, to match names provided in the Claim Form with names contained in the banks’ database, the CRT has used a database created by Yad Vashem, Israel, which provided different variations in Latin characters for each of the names.

⁴ Claimant [REDACTED 3] submitted additional Claim Forms, which are registered under the Claim Numbers 213680, 213681, 213682, and 213684. In four separate decisions, the CRT treated Claimant [REDACTED 3]’s claims to the accounts of Abraham Adolf Katz, Israel Hubel, Dawid Zipper and Samuel Lippmann (the “Claimed Account Owners”), and stated that it did not locate an account belonging to these Claimed Account Owners 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”).

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) as well as a Claim Form identifying the Account Owner as her first husband, David Liebermann, the son of [REDACTED], who was born in 1916 in Poland, and was married to Claimant [REDACTED 1] in late 1939 or early 1940 in Lodz, Poland. Claimant [REDACTED 1] stated that the couple did not have any children. Claimant [REDACTED 1] explained that her husband, who was Jewish, was the owner of a machinery factory located at Cegielniana Street 7 in Lodz, and that he regularly traveled on business to various countries, including Switzerland, England, Egypt and Palestine. Claimant [REDACTED 1] stated that she and her husband resided together in Lodz, and that in the early 1940s, they were confined in the Lodz ghetto until 13 August 1944, at which point they were deported to Auschwitz. Claimant [REDACTED 1] stated that in December 1944, her husband was deported to the Gleiwitz sub-camp of Auschwitz, where he perished.

In support of her claim, Claimant [REDACTED 1] submitted an affidavit, dated 10 April 1960, regarding her experiences prior to and during the Holocaust, which indicates that her first husband’s name was David Liebermann.

Claimant [REDACTED 1] indicated that she was born on 3 May 1922 in Poland. The CRT was informed that Claimant [REDACTED 1] passed away on 29 March 2002.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his paternal grandfather, David Liebermann, whose son [REDACTED] was Claimant [REDACTED 2]’s father. Claimant [REDACTED 2] further explained that his grandfather, who was Jewish, was a wealthy businessman who worked in the field of brewing and distilling. Claimant [REDACTED 2] stated that prior to the Second World War, his family moved from Poland to Czechoslovakia, but that he did not know his grandfather’s exact whereabouts or fate during the Second World War.

Claimant [REDACTED 2] indicated that in April 1944, he himself was taken to a forced labor camp in Nagybánya (Baia Mare, now Romania), and was later deported to the Gunskirchen concentration camp, one of the sub-camps of the Mauthausen concentration camp, until 1945, when he was liberated by the United States Army.

Claimant [REDACTED 2] indicated that he was born on 6 May 1923 in Czechoslovakia.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted several IQs and Claim Forms identifying the Account Owner as his father, David (Dawid) Liebermann, who was born on 19 May 1894 in Żurawno, Galicia, Austria (now the Ukraine) and was married to [REDACTED], née [REDACTED], on 3 June 1923 in Stryj, Poland (now the Ukraine). Claimant [REDACTED 3] indicated that he is his

parents' only child. Claimant [REDACTED 3] explained that his father, who was Jewish, was a successful businessman who co-founded a private bank located at Stryjska Street 24 in Żurawno, where he resided until 1942. Claimant [REDACTED 3] stated that his father was also a Zionist leader with a business address at 3 May Street in Żurawno from 1933 to 1939. Claimant [REDACTED 3] further stated that from 1940 until 1941, his father worked as an accountant in a sanatorium for pulmonary diseases in Żurawno. According to Claimant [REDACTED 3], in 1942, his father was forced to perform slave labor in Stryj until June 1943, and then went into hiding in the woods beyond the village of Łukawiec, in East Galicia (now Poland), from June 1943 to August 1944, at which point he returned to Żurawno to work as an accountant. Claimant [REDACTED 3] stated that in 1945, his father moved to Krakow, where he resided at Limanowski Street 13, until 1947, when he emigrated to Israel; he died on 15 June 1977.

In support of his claim, Claimant [REDACTED 3] submitted copies of documents, including: (1) his father's membership card of the Zionist organization *Brit-Rishonim*, which indicates that David Liebermann, who was born in 1894 in Poland, moved to Israel by 1948; and (2) his father's death certificate, which indicates that David Liebermann died on 15 June 1977, and that Claimant [REDACTED 3] was David Liebermann's sole heir.

Claimant [REDACTED 3] indicated that he was born on 1 July 1927 in Stryj. His son, [REDACTED], indicated that Claimant [REDACTED 3] passed away in May 2007.

Information Available in the Bank's Records

The Bank's records consist of a list of accounts transferred to the Bank's profit and loss account and a printout from the Bank's database. According to these records, the Account Owner was David Liebermann, whose domicile is not indicated. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, which was transferred to a suspense account on 30 June 1937. According to the Bank's records, the value of the account on the date of its transfer was 9.85 Swiss Francs ("SF"). The Bank's records finally indicate that the account was eventually closed to the Bank's profit and loss account on an unknown date.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the five claims of the Claimants in one proceeding.

Identification of the Account Owner

The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

Claimant [REDACTED 1]

Claimant [REDACTED 1]'s first husband's name matches the published name of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named David Liberman, and indicates that he was born in 1916 in Poland, to [REDACTED], which matches the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that the information included in the Yad Vashem Memorial of Israel was provided by a cousin of David Liberman, named [REDACTED], who resided in Israel and who translated the Hebrew name of her cousin as Liberman, which is a Hebrew variation of the name Liebermann. Therefore, the CRT concludes that this name variation does not materially affect the identification of the Account Owner.

Furthermore, the CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her first husband, David Liebermann, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List"). This indicates that Claimant [REDACTED 1] 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 first husband, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that her first husband owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

Claimant [REDACTED 2]

Claimant [REDACTED 2]'s grandfather's name matches the published name of the Account Owner. Additionally, the CRT notes that Claimant [REDACTED 2] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his sister, [REDACTED], née [REDACTED], and him, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 2] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2].

Claimant [REDACTED 3]

Claimant [REDACTED 3]'s father's name matches the published name of the Account Owner. In support of his claim, Claimant [REDACTED 3] submitted documents, including his father's death certificate, which indicates that Claimant [REDACTED 3] was David Liebermann's sole heir.

Furthermore, the CRT notes that Claimant [REDACTED 3] filed several IQs with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, David Liebermann,

prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 3] has based his 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 his father, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 3] had reason to believe that his father owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 3].

The CRT notes that the Claimants' relatives are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in these records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other equally plausible claims to this account, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimants [REDACTED 1] and Claimant [REDACTED 3] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that in 1944 her first husband, who was Jewish, was deported to Auschwitz and from there to the Gleiwitz sub-camp, where he perished. Claimant [REDACTED 3] stated that in 1942, his father, who was Jewish, was forced to perform slave labor in Stryj, Poland, and that he later was forced to hide in the woods in East Galicia to escape Nazi persecution.

Although Claimant [REDACTED 2] did not provide specific information regarding his grandfather's fate, the CRT considers that he has made a plausible showing that his grandfather, the Account Owner, was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that his grandfather was Jewish and that his family lived in Poland and Czechoslovakia. Claimant [REDACTED 2] also stated that he himself was forced to perform slave labor until 1944, when he was deported to the Gunskirchen sub-camp of the Mauthausen concentration camp.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner.

Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s first husband and Claimant [REDACTED 2]'s grandfather. Claimant [REDACTED 3] submitted specific information and documents, including his father's death certificate, which indicates that Claimant [REDACTED 3] is David Liebermann's sole heir.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account on 30 June 1937 and eventually closed to the Bank's profit and loss account. Therefore, the CRT concludes that neither Account Owner nor his heirs received the proceeds of the account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 1]'s first husband, Claimant [REDACTED 2]'s grandfather, and Claimant [REDACTED 3]'s father, and these relationships justify an Award. Finally, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

The Bank's records indicate that the value of the account of unknown type as of 30 June 1937 was SF 9.85. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The present value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5 in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3], are each entitled to one-third of the Award amount.

Certification of the Award

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

Claims Resolution Tribunal
3 June 2009