

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Account of Emil Israel Loeb

Claim Number: 789845/RS²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the published account of Emil Israel Loeb (the "Account Owner") at the Zurich branch of the [REDACTED] (the "Bank").³

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 three Initial Questionnaires identifying the Account Owner's heir as his father, [REDACTED], who was born in 1883, and was married to [REDACTED], née

¹ The CRT notes that Claimant [REDACTED] passed away on 30 August 2004. See: <http://ssdi.rootsweb.com>.

² The Claimant did not submit a Claim Form to the CRT. However, in 1999 he submitted two Initial Questionnaires ("IQ's"), numbered ENG 0524 082 and ENG 0158 060, to the Court in the United States; in 2001, he submitted one additional IQ, numbered ENG 0824 152, to the Court. Although these IQ's were not Claim Forms, 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's were forwarded to the CRT and have all been assigned claim number 789845.

³ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), the name Emil Loeb also appears. Upon careful review of the Bank's records, the CRT has determined that published account owner Emil Loeb is the same person as published account owner Emil Israel Loeb; however, the Emil Loeb account was closed in 1928, and consequently is outside of the jurisdiction of the CRT and is not awardable by the CRT. The Emil Loeb account was therefore published in error.

Additionally, the CRT notes that Emil Loeb is also listed as a power of attorney holder for three accounts held by Hattie Loeb. Upon careful review of the Bank's records, which include testamentary documents, the CRT has determined that power of attorney holder Emil Loeb is the same individual as account owner Emil Israel Loeb. However, the Bank's records, in particular Hattie Loeb's testamentary documents, indicate that Emil Loeb was not entitled to ownership of any of the three accounts held by Hattie Loeb, and consequently those accounts are not addressed in the above decision.

[REDACTED]. The Claimant stated that his father, who was Jewish, had two sons, namely the Claimant, who was born with the name [REDACTED] in 1920, and [REDACTED], who was born in 1924. According to the Claimant, prior to the Second World War, the family resided at Luisenstrasse 86 in Offenbach am Main, Germany. The Claimant also indicated that in 1942, his parents and younger brother were all deported to concentration camps in Eastern Europe, where they perished. The Claimant stated that in 1938, he was arrested and sent to Buchenwald concentration camp; he was subsequently forced to leave Germany, and spent over four years in internment camps in England and Canada.

The Claimant indicated that he was born on 31 October 1920. The CRT notes that the Claimant passed away on 30 August 2004.

Information Available in the Bank's Records

The Bank's records consist of a number of documents indicating that the Account Owner was Emil Israel Loeb, who resided in Munich, Germany.⁴ Those records indicate that prior to his death, the Account Owner held one account of an unknown type at the Bank. The documents include a German court document indicating that the Account Owner died on 21 March 1940 in Munich, and that the Executor of his estate was Notary (*Notar Justizrat*) Kuno Israel Hirsch (the "Executor"). The documents also indicate that following Emil Loeb's death, an account of an unknown type in the name of the Estate of Emil Loeb existed at the Bank.

The records include a copy of Emil Loeb's will, which indicates that he had five heirs, each of whom was entitled to one-fifth of the estate; one of those five heirs was businessman (*Kaufmann*) [REDACTED], of Offenbach am Main, Germany.⁵ The other four heirs were identified as Miss [REDACTED] of Wiesbaden, Miss [REDACTED] of Wiesbaden, Miss [REDACTED] of Wiesbaden, and Mrs. [REDACTED], nee [REDACTED], of Leipzig.

The Bank's records indicate that as a result of certain marital and testamentary agreements, Emil Loeb received monthly annuity payments in the amount of 200.00 U.S. Dollars ("U.S. \$) from the *Guaranty Trust Company of New York* ("*Guaranty Trust*") in the United States. The documents also indicate that those annuity payments would cease upon Emil Loeb's death. A memorandum prepared by the Bank, dated 5 April 1940, indicates that upon receipt of the monthly U.S. \$200.00 annuity payment from *Guaranty Trust*, the Bank would credit Emil Loeb's account at the Bank with the equivalent amount in Swiss Francs. Further correspondence from the Executor indicates that the Bank would then transfer the amounts of the deposited annuity payments from Emil Loeb's account at the Bank, to his account at the *Bayerische Staatsbank* in Munich.

⁴ The CRT notes that under the Nazi regime, Jewish males residing in Germany were designated with the middle name "Israel." Consequently, it is likely that "Israel" was not the given middle name of either Emil Loeb or [REDACTED]; rather, this name was likely a mere designation made by the Nazi authorities some time after the Nazis came to power in Germany in 1933.

⁵ The CRT notes that no claims identifying the names of any of the other four heirs of the Estate of Emil Israel Loeb were submitted to the CRT.

The Bank's records include a statement, signed 20 November 1939 by Emil Israel Loeb, and addressed to the Bank in Zurich. The statement indicates that following an order of the Munich Financial Authorities, dated 8 November 1939, Emil Israel Loeb informed the Bank that he was henceforth only able to receive deposits at his account at the *Bayerische Staatsbank* in Munich. The statement indicates that Emil Loeb had only limited access or disposition rights to that account (*beschränkt verfügbar*). It also explains that Emil Loeb was no longer able to accept cash payments from any source. The statement indicates, finally, that Emil Loeb had been informed that violation of the terms of the statement were punishable by imprisonment or monetary fines.

The Bank's records also include an internal Bank memorandum, dated 23 November 1939, three days after Emil Loeb signed the above statement. That memorandum indicates that all assets at the Bank belonging to Emil Israel Loeb, of 5 Hermann Schmidstrasse, Munich, were to be blocked; access to the assets could only be granted following permission of the Bank's legal department. The memorandum also indicates that all outgoing and incoming correspondence relating to Emil Israel Loeb was to be directed to the Bank's legal department. The memorandum indicates that as of 23 November 1939, Emil Loeb held assets of 14.00 Swiss Francs ("SF") at the Bank.

In a 26 March 1940 letter, the Executor informed the Bank that Emil Loeb was deceased; he also indicated that since the beginning of the War, Emil Loeb had not received his monthly annuity payments on a regular basis. All of the letters from the Executor to the Bank that are included in the Bank's records, including the 26 March 1940 letter, contain a note indicating that censors had opened the letters (*durch Zensur geöffnet*).

The correspondence between the Bank, the Executor, and *Guaranty Trust* indicates that the Bank opened an account (*Konto pro Diverse*) in the name of The Estate of Emil Loeb (*Nachlass Emil Loeb*) at the Bank in approximately November 1940. The CRT notes that it is plausible that this account was merely a renaming of the account previously held in the name of Emil Loeb. The correspondence indicates that the Bank then credited SF 860.50, namely the equivalent of U.S. \$200.00, to the Estate account; that amount represented the value of the 5 March 1940 annuity payment to Emil Loeb. The Executor then requested that the Bank transfer the SF 860.50 to account number 19376 in the name of The Emil Loeb Estate (*Emil Loeb Nachlass*) at the *Bayerische Staatsbank* in Munich.

The correspondence further indicates that *Guaranty Trust* requested that the Bank return the 4 April 1940 annuity payment to *Guaranty Trust*, as the annuity payments were scheduled to terminate upon the death of Emil Loeb. The correspondence indicates that the Bank had not yet credited the April payment to Emil Loeb's account at the Bank, and the Bank consequently made arrangements to return the 4 April 1940 annuity payment to *Guaranty Trust*, as requested.

The Bank's records include an internal Bank memorandum sent to various departments of the Bank, inquiring whether the deceased Emil Loeb held any assets within each of the departments.

Nine different department managers signed the memorandum, which indicates that as of 29 April 1940, Emil Loeb held assets valued at SF 899.25 at the Bank.⁶

The Bank's records do not indicate when The Emil Loeb Estate account was closed. 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's heirs closed The Emil Loeb Estate account and received the proceeds themselves.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. Those documents indicate that Emil Loeb was married to [REDACTED], also known as [REDACTED], at the time of [REDACTED]'s death on 17 January 1933; however, Emil Loeb and [REDACTED] were legally separated at the time of her death. The documents include a copy of [REDACTED]'s will, indicating that Emil Loeb had renounced all rights to inheritance from [REDACTED] as a result of marital agreements dated 1928 and 1931, and that Emil Loeb was, as a result of those agreements, "amply provided for through certain payments which he is to receive during his lifetime." The records also indicate that Emil Loeb had held a custody account at the Bank, but that that account was closed on 16 March 1928.

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 three claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant's father's name and city and country of residence match the unpublished name and city and country of residence of the Account Owner's heir, [REDACTED].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 21 August 1883, and place of residence was Offenbach, Darmstadt, Germany, which matches the information

⁶ The CRT notes that this memorandum supercedes the 23 November 1939 memorandum indicating that Emil Loeb held assets of SF 14.00 at the Bank as of that date.

about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant did not identify Account Owner Emil Loeb. However, the CRT notes that the Claimant's family resided in Offenbach am Main, whereas the Account Owner resided in Munich, and therefore determines that it is plausible that the Claimant would not know the names of all of his father's extended family members, and that the Claimant's failure to identify Account Owner Emil Loeb does not adversely affect the plausibility of his identification of the Account Owner's heir [REDACTED].

The CRT notes that there were no other claims to the account of Emil Loeb, and that the other claim to an account belonging to [REDACTED] was disconfirmed because that claimant provided a different city of residence than the city of residence of the Account Owner's heir [REDACTED]. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner's heir, [REDACTED].

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner's heir [REDACTED] was a Victim of Nazi Persecution. The Claimant stated that his father was Jewish, and that he was deported, together with his wife and son [REDACTED], to Eastern Europe, where he perished. As noted above, a person named [REDACTED] was included in the CRT's database of victims.

In addition, the CRT notes that the Bank's records indicate that Account Owner Emil Loeb was also a Victim of Nazi Persecution. The Bank's records include a 1939 statement, signed by Emil Loeb, indicating that following an order of the Munich Financial Authorities, Emil Israel Loeb was only able to receive deposits at his account at the *Bayerische Staatsbank* in Munich. The statement indicates that Emil Loeb had only limited access to that account. It also indicates that Emil Loeb was not permitted to accept cash payments from any source, and that violation of the terms of the statement was punishable by imprisonment or fines. A subsequent internal Bank memorandum indicates that Emil Loeb's assets at the Bank were blocked three days after Emil Loeb signed that statement.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner's heir [REDACTED] by submitting specific information, demonstrating that [REDACTED] was the Claimant's father. There is no information to indicate that [REDACTED] has other surviving heirs.

The CRT further notes that the Claimant identified information which matches information contained in the Yad Vashem records.

The CRT notes that the Claimant did not indicate how he is related to Account Owner Emil Loeb. However, given that the Bank's records indicate that the Account Owner and his heir [REDACTED] shared the same surname, the CRT concludes that it is plausible that the Account

Owner and his heir [REDACTED] were related, and that by plausibly demonstrating that he is related to [REDACTED], the Claimant has also plausibly demonstrated that he is related to the Account Owner Emil Loeb. In addition, given that the Bank's records indicate that [REDACTED] was an heir of Emil Loeb, the Claimant's identification of [REDACTED] alone entitles him to receive the proceeds of the account.

The Issue of Who Received the Proceeds

The Bank's records indicate that in 1940, the Executor requested that the Bank transfer SF 860.50, the equivalent of the U.S. \$200.00 March annuity payment, to an account held by The Estate of Emil Loeb at the *Bayerische Staatsbank* in Munich. However, there is no indication that that transfer was ever made.

Given that in 1939, the Account Owner was ordered by the Munich Financial Authorities to sign a statement confirming that he was not able to accept any cash payments from any source, and that he was only able to receive deposits at a limited-access account at the *Bayerische Staatsbank*; that the Account Owner's assets at the Bank were blocked three days after he signed that statement; that the Executor indicated to the Bank that the Account Owner had not received his annuity payments regularly since the outbreak of the war; that all of the correspondence from the Executor to the Bank was censored; that the Account Owner's heir [REDACTED] was deported soon after the Account Owner's death; that there is no record of the payment of the Account Owner's assets at the Bank to his heirs; that the Account Owner's heirs would not have been able to obtain information about The Emil Loeb Estate 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 (d), (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's 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 Bank's records contain the Account Owner's will, which indicates that [REDACTED] was one of the Account Owner's heirs; the Claimant has plausibly demonstrated that [REDACTED] was his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner's heirs did not receive the proceeds of the Account Owner's assets at the Bank.

Amount of the Award

In this case, the Account Owner held one account of an unknown type at the Bank prior to his death; as indicated above, it is plausible that Emil Loeb originally opened this account in his own

name, and that the Bank subsequently changed the name on the account to The Estate of Emil Loeb. An internal Bank memorandum indicates that as of April 1940, the Account Owner held SF 899.25 in total assets at the Bank, and subsequent correspondence confirms that that amount was reduced by approximately U.S. \$25.00 in administrative fees during the estate-administration process. The correspondence between the Executor and the Bank indicates that the account owned by the Account Owner's Estate held the equivalent of one US \$200.00 annuity payment, or SF 860.50. Consequently, the Bank's records indicate that the assets held at the Bank by the Estate of the Account Owner on 7 November 1940 totaled SF 860.50. The CRT notes, however, that in a letter dated 26 March 1940, the Executor of the Account Owner's Estate informed the Bank that since the beginning of the War, Emil Loeb had not received his monthly annuity payments on a regular basis. The CRT considers it likely that either the amounts were not transferred since that time, or that the amounts were confiscated by Nazi authorities upon their forced repatriation to Nazi Germany. The true value of the assets in the account is therefore unknown.

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 SF 3,950.00 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 SF 49,375.00.

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 Bank's records contain the Account Owner's will. The Claimant has plausibly demonstrated that he is related to one of the Account Owner's five heirs, [REDACTED]. No claimants submitted claims to the CRT in the names of any of the Account Owner's other four heirs. Accordingly, the Claimant is entitled to the entire 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 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
24 October 2008