

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
represented by Regina Gorelik

## **in re Accounts of Clara Loewenberg**

Claim Number: 401233/RS<sup>1</sup>

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Clara Loewenberg (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 Clara Loewenberg, who was a relative of his maternal aunt, [REDACTED] of Riga, Latvia. The Claimant indicated that Clara Loewenberg, who was Jewish, was born on 22 April 1886, and that he was unsure of her exact relationship to his maternal aunt, [REDACTED], née [REDACTED]. The Claimant indicated that his aunt met with the Claimant’s mother, [REDACTED], née [REDACTED], in 1940, after the two had been separated for several years. According to the Claimant, at that time, Judith Loewenberg stated that her relatives [REDACTED] and [REDACTED] were missing, and that they had been very wealthy individuals who had lived in Vienna, Austria; Clara Loewenberg had owned an apartment building as well as a business of her own. The Claimant stated that during that conversation, his aunt asked his mother to assist her in uncovering any further information about the whereabouts or assets of Clara Loewenberg. The Claimant indicated that his aunt had relayed to his mother numerous details about Clara Loewenberg during the conversation, including that she resided at Werthemburg 3a in Vienna. The Claimant also

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<sup>1</sup> Claimant [REDACTED] (the “Claimant”) submitted two additional claims, which are registered under the Claim Numbers 219687 and 219688. In separate decisions, the CRT awarded the accounts of Joseph Levenberg, Judith Loewenberg, Joseph Loewenberg, and Shmerel Loewenberg to the Claimant. See *In re Accounts of Joseph Levenberg and Judith Loewenberg* (approved on 8 June 2004), and *In re Accounts of Joseph Loewenberg, Judith Loewenberg and Shmerel Loewenberg* (approved on 19 November 2003).

indicated that he believes that Clara Loewenberg and his maternal aunt both perished during the Holocaust.

The Claimant indicated that he was born on 14 October 1932 in the Ukraine.

### **Information Available in the Bank's Record**

The Bank's record consists of a custody account customer card. According to this record, the Account Owner was *Frl.* (Miss) Clara Loewenberg, who resided at Werthenburggasse 3a in Vienna, Austria. The Bank's record indicates that the Account Owner held a custody account and a demand deposit account, numbered 35610. The customer card also indicates that correspondence related to the accounts, and securities-related coupons, should only be sent to the Account Owner once annually.

The Bank's record indicates that the custody account was closed on 11 April 1938, and that the demand deposit account was closed on or before that date. The amounts in the account on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

### **Information Available from the Austrian State Archive**

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Clara Loewenberg, numbered 46989. These records make no mention of assets held in a Swiss bank account.

These records indicate that Clara Loewenberg was born on 22 April 1886; that she resided at Werthenburggasse 3a in Vienna; that she did not have a stated occupation (*Privat*); and that she was not married at the time of the 1938 Census. In her asset declaration, Clara Loewenberg reported that she had owned a rental house worth 30,000.00 Reichsmark ("RM"), located at Kölblgasse 29 in Vienna, which she had sold on 14 June 1938 to Berta Breiteneder. She also reported that she owed [REDACTED] a debt in the form of a mortgage in the amount of RM 6,666.67. Clara Loewenberg signed the 1938 Census form on 15 July 1938 in Vienna.

The records contain a letter from the notary overseeing the sale of Clara Loewenberg's rental house, to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt."), dated 24 November 1938, which indicates that the house was sold to Berta Breiteneder on 14 June 1938 for a total purchase price of RM 16,894.66. Of the total purchase price, RM 2,894.66 would be paid to Clara Loewenberg by the purchaser in regular installments, and RM 14,000.00 would be assumed by the purchaser as a mortgage.

The records also contain a letter from the local Vienna finance office (*Finanzamt Meidling Wien*) to the VVSt., dated 7 December 1938, in which the finance office reports that Clara Loewenberg's reported assets of RM 30,000.00 differed from the city's 1935 income tax records, which indicated that Clara Loewenberg had paid RM 33,333.00 in 1935 for an asset, presumably the rental house.

The records further contain a letter from Clara Loewenberg to the VVSt., dated 7 June 1939, in which Clara Loewenberg appealed the VVSt.'s assessment of her assets as totaling RM 30,000.00. In the appeal, she indicated that she had sold the rental house that she owned, which had a market value of RM 30,000.00; despite the market value of the house, however, a mortgage on the property meant that Clara Loewenberg only received RM 14,000.00 from the sale of the property. Clara Loewenberg indicated in the letter that the VVSt. had assessed atonement tax (*Vermögensabgabe*) of RM 6,000.00 against her, based upon assets of RM 30,000.00; she indicated to the VVSt. that given actual assets of only RM 14,000.00, her atonement tax should instead have been assessed at RM 2,800.00. There is no further indication in the records as to the actual amount of atonement tax paid by Clara Loewenberg. The letter also indicates that as of June 1939, Clara Loewenberg had moved to a new address at Herbeckstrasse 26 in Vienna.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's relative's name matches the published name of the Account Owner. The Claimant also identified the Account Owner's exact street address and city and country of residence, which matches unpublished information about the Account Owner contained in the Bank's record. Additionally, the Claimant identified the Account Owner's date of birth and the name of a relative of the Account Owner, [REDACTED], which matches information in the records of the Austrian State Archive.

The CRT notes that the name Clara Loewenberg appears only once on the List of Account Owners Published in 2005 (the "2005 List").

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence or maiden name than the country of residence and maiden name of 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, that she resided in Nazi-controlled Austria, and that he believes that the Account Owner perished in the Holocaust. The Claimant indicated that the Account Owner was a relative of his mother's, and that his mother was the only member of her side of the family to have survived the Second World War. The

Claimant further indicated that in 1940, his aunt indicated that the Account Owner was considered to be “missing.”

### The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was a relation of the Claimant’s maternal aunt. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank’s record.

### The Issue of Who Received the Proceeds

The Bank’s record indicates that the custody account was closed on 11 April 1938, and that the demand deposit account was closed on or before that date.

Given that the Account Owner resided in Nazi-controlled Austria; that there is no record of the payment of the Account Owner’s accounts to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 her 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 maternal aunt’s relative, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs

("SF"), and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00. 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 189,250.00.

### **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 claims 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  
12 October 2007