

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

**in re Accounts of Joseph Loewenberg, Judith Loewenberg
and Shmerel Loewenberg**

Claim Numbers: 219687/MBC; 219688/MBC

Award Amount: 325,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Joseph Loewenberg (“Account Owner Joseph Loewenberg”) and Judith Loewenberg (“Account Owner Judith Loewenberg”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”), and to the account of Shmerel Loewenberg (“Account Owner Shmerel Loewenberg”) at 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 two Claim Forms identifying Account Owner Judith Loewenberg, née [REDACTED], as his maternal aunt, who was born in 1887 in Talsi, Latvia, and was married to Account Owner Shmerel Loewenberg, the Claimant’s uncle, with whom she had two children, Account Owner Joseph Shmerel Loewenberg, who was born in 1909, and [REDACTED], who was born on an unknown date and died in 1920. The Claimant stated that his aunt and his mother, [REDACTED], née [REDACTED], were sisters. The Claimant indicated that his relatives were Jewish and that they lived on Dzirnāvlīstrasse and Elizabetestrasse in Riga, Latvia. The Claimant further indicated that Account Owner Shmerel owned a pharmacy where Account Owner Judith Loewenberg also worked. According to the Claimant, Account Owner Shmerel Loewenberg died in 1932, and Account Owner Judith Loewenberg and Account Owner Joseph Shmerel Loewenberg lived in Riga until 1941, when they perished under the Nazi regime sometime after 1941. The Claimant stated that his mother was the only survivor of her entire family and that she died in 1960. The Claimant indicated that he was born on 14 January 1932 in the Ukraine.

Information Available in the Bank's Records

The Bank's records consist of a letter from a court in Riga in charge of minors, a joint account contract, a power of attorney form, and printouts from the Bank's database. According to these records, the Account Owners of one custody account, numbered 37579, were *Frau* Judith Loewenberg and Joseph Loewenberg of Riga, and the Account Owner of a second custody account was Shmerel Loewenberg, who owned a drug store located at 89 Elisabethstrasse in Riga.

The Bank's records indicate that the Power of Attorney Holder over Account Owner Shmerel Loewenberg's custody account was *Frau* Judith Loewenberg. With regard to custody account numbered 37579, the Bank's records indicate that on 13 December 1932, the Riga court for minors issued a decision numbered 2112, which stated that Account Owner Joseph Loewenberg was the procurator of the assets of Account Owner Shmerel Loewenberg, who was deceased. Following this decree, on 20 February 1933, a joint account contract for the account was made between the Bank, *Frau* Judith Loewenberg, and her son, Joseph Loewenberg. With regard to the second custody account, the Bank's records indicate that a power of attorney form was signed by Shmerel Loewenberg in favor of *Frau* Judith Loewenberg, née [REDACTED], on 2 February 1928.

The Bank's records do not show when the custody accounts were closed, or to whom they were paid, 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.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owner. His uncle's, aunt's, and cousin's names match the published names and city of residence of the Account Owners and Power of Attorney Holder. The Claimant identified his relatives' relationship to each other, their street address, and his uncle's first name, year of death, and the fact that he owned a drug store, which all match unpublished information about the Account Owners contained in the Bank's records. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city and country of

residence than the city and country of residence of the Account Owners and Power of Attorney Holder. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Judith Loewenberg and Account Owner Joseph Loewenberg were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they lived in Nazi occupied Riga until 1941, when they perished as a result of action by the Nazi regime that occupied Riga in 1941. The CRT notes that Account Owner Judith Loewenberg and Account Owner Joseph Loewenberg, who were also Victims of Nazi Persecution, were the heirs to Account Owner Shmerel Loewenberg.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific biographical information about his relatives demonstrating that they were his aunt, uncle and cousin. The CRT notes that the Claimant identified the unpublished information about his relatives, as contained in the Bank's records. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that Account Owner Judith Loewenberg and Account Owner Joseph Loewenberg lived in Nazi occupied Latvia where they perished in approximately 1941; that there is no record of the payment of the Account Owners' accounts to them; 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), (i), and (j), as provided in Article 28 of 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his aunt, uncle, and cousin, and those relationships justify an Award. Finally, 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, Account Owners Joseph Loewenberg and Account Owner Judith Loewenberg jointly held one custody account and Account Owner Shmerel Loewenberg held one custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here with respect to both accounts, 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. 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 325,000.00 Swiss Francs.

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
19 November 2003