

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Berthold Loewenstein

Claim Number: 788439/SK¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Berthold Loewenstein (the “Account Owner”) at the Solothurn 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 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 an Initial Questionnaire identifying the Account Owner, Berthold Loewenstein as her paternal grandfather, Berthold Loewenstein, who was born 12 November 1863 and married to [REDACTED]. According to the Claimant, her grandfather, who was Jewish, worked as an attorney and lived in Leipzig, Germany until 1938, when he fled to Solothurn, Switzerland, where he resided from 4 November 1938 until February 1939. The Claimant indicated that her grandparents emigrated to Palestine in February 1939. The Claimant further indicated that Berthold Loewenstein died in Tel Aviv, Palestine (now Israel) on 24 February 1946. The CRT notes that the Claimant indicated that Berthold Loewenstein has other surviving relatives who did not submit claims to this account.

In support of her claim, the Claimant submitted copies of documents, including: (1) two bank statements dated 29 June 1939 and 1 July 1939 from the *Commerz- und Privat-Bank's* branch in Leipzig, Germany, addressed to *Justizrat* (senior legal counsel) Dr. Berthold Loewenstein and

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0721-114, 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 788439.

his wife [REDACTED] in Solothurn, and (2) a letter dated 22 July 1939 from the Leipzig branch of the *Commerz- und Privat-Bank*, addressed to *Justizrat* Dr. Berthold Loewenstein, Herrenweg 27, Solothurn. The Claimant indicated that she was born on 3 January 1932 in Palestine (now Israel).

The Claimant previously submitted two ATAG Ernst & Young claim forms in 1997, asserting her entitlement to a Swiss bank account owned by Berthold Loewenstein. The CRT notes that, on the basis of that claim, the Claimant was awarded an account belonging to Berthold and [REDACTED] Loewenstein at another Swiss bank by the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”).² In that case, the bank records for that account indicated that the account owners resided in Solothurn, Switzerland, and subsequently in Tel-Aviv, Palestine.

Information Available in the Bank’s Records

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 submit original documents pertaining to the account at issue, but provided a report regarding the Account Owner’s account. According to the auditors’ report, the Account Owner was Berthold Loewenstein, who was an Estonian national and resided in Israel. The report indicates that the Account Owner held one account, the type of which is not indicated, numbered 13512. The report further indicates that the Account Owner opened the account at the Bank’s Solothurn branch on 4 November 1938. The auditors indicated that the account was transferred to a suspense account on an unspecified date, as of which date the balance of the account was 664.20 Swiss Francs (“SF”). The account remains in the suspense account.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s paternal grandfather’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s country of residence, which matches unpublished information about the Account Owner contained in the auditors’ report. The CRT also notes that Claimant indicated that her grandfather arrived in Solothurn on 4 November 1938, which is consistent with the fact that the account was opened on 4 November 1938 at the Bank’s Solothurn branch. The CRT further notes that the Claimant was awarded another account held by her grandparents at another Swiss bank by CRT I, and that the bank’s records in that case indicated that the account owners resided in Solothurn and subsequently in Tel-Aviv, Palestine. The CRT notes that the auditors’ report in this case indicates that the Account Owner was an Estonian national. However, given the fact that no original bank records were provided to support or verify this finding, that the account here was opened on the same day that the

² See Docket Number 7348/0998/PI/CM.

Claimant's grandparents arrived in Solothurn, which was the location of the branch in which the account was opened, and that the Claimant's grandparents held an account at another Swiss bank, whose records indicate that they resided in Solothurn and subsequently in Tel-Aviv, the CRT concludes that in this case, the inconsistency in the auditors' report does not materially alter the Claimant's identification of the Account Owner.

In support of her claim, the Claimant submitted documents, including copies of two bank statements and a letter from the *Commerz- und Privat-Bank* addressed to Berthold Loewenstein in Solothurn.³

The CRT notes that the name Berthold Loewenstein appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and two ATAG Ernst & Young claim forms in 1997, asserting her entitlement to a Swiss bank account owned by Berthold Loewenstein, prior to the publication in February 2001 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 notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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 he resided in Nazi Germany, that he fled to Switzerland in 1938, and subsequently to Palestine in 1939.

The Claimant's Relationship to the Account Owner

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

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the auditors' report. The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and two ATAG Ernst & Young claim forms in 1997,

³ The CRT notes that the Claimant indicated that her grandfather moved from Solothurn to Palestine in February 1939, whereas the bank statements and letter were sent to Berthold and [REDACTED] Loewenstein's address in Solothurn as late as July 1939. It is not clear whether Berthold Loewenstein was still in Switzerland at this time, or if the correspondence was forwarded to him.

identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted copies of two bank statements and a letter addressed to the Account Owner in Solothurn, which provide independent verification that the Claimant's grandfather had the same name as the Account Owner and that he resided in the same city where the Bank was located. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The CRT notes that the Claimant indicated that Berthold Loewenstein has other surviving heirs who did not file Claim Forms and are not represented by the Claimant. The CRT therefore will not treat their potential entitlement to this account in this decision.

The Issue of Who Received the Proceeds

The auditors' report indicates that the account remains suspended.

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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her paternal grandfather, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The auditors' report indicates that the value of the account was SF 664.20. However, no corresponding balance date is available for this value. Consequently, the CRT is treating the account as an account of unknown value. Pursuant to Article 29 of the Rules, when the value of an account is unknown, 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. 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.

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
27 February 2007