

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED1]
also acting on behalf of [REDACTED]

and

Claimant [REDACTED2]
also acting on behalf of [REDACTED] and [REDACTED]

in re Account of Karl Loewenstein

Claim Numbers: 219457/SJ; 221724/SJ

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED1] (“Claimant [REDACTED1]”) to the account of Karl Loewenstein (the “Account Owner”) and the claim of [REDACTED2] (“Claimant [REDACTED2]”) (together the “Claimants”) to the account of [REDACTED].¹ This Award is to the account of the Karl Loewenstein 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.

Information Provided by the Claimants

Claimant [REDACTED1] submitted a Claim Form identifying the Account Owner as her father, Karl Otto Loewenstein, who was born on 19 May 1916 in Vienna, Austria, and was married to [REDACTED] in June 1944 in Sacramento, California. According to Claimant [REDACTED1], Karl Loewenstein and his brother, [REDACTED], studied medicine in Vienna. Claimant [REDACTED1] further stated that her father’s parents were physicians who traveled frequently throughout Europe to lecture on various scientific and medical topics. Claimant [REDACTED1] stated that her father’s mother, [REDACTED], deposited valuables in Switzerland for safekeeping in anticipation of Nazi persecution. Claimant [REDACTED1] stated that she believes that her grandmother opened Swiss bank accounts in her son’s name. Claimant [REDACTED1] stated that her father, who was Jewish, was forced to flee Vienna after the Nazi

¹ The CRT will treat the claim to this account in a separate decision.

annexation of Austria (the “*Anschluss*”). Claimant [REDACTED1] stated that her father received a visa from the British Embassy and arrived in England in approximately October 1938, and that he later immigrated to the United States. Claimant [REDACTED1] added that when her father arrived in the United States in 1943, he changed his name from Karl Otto Loewenstein to Charles Lenert. Claimant [REDACTED1] stated that her father and first wife had two children, the Claimant and her brother [REDACTED], and divorced in 1957. Claimant [REDACTED1] stated that her father remarried in 1960 and had two additional children. Claimant [REDACTED1] indicated that her father died on 26 October 1966 in Sacramento, California.

Claimant [REDACTED1] submitted numerous documents in support of her claim, including a copy of her birth certificate which indicates her father's name as Charles Lenert; a copy of her father's Petition for Naturalization, dated 1943, which notes that his name was Charles Lenert, but that he immigrated to the United States under the name Karl Otto Loewenstein; and a copy of her family tree. Claimant [REDACTED1] stated that she was born on 9 July 1952 in Sacramento, California. Claimant [REDACTED1] is representing [REDACTED], her brother, who was born on 14 May 1951, also in Sacramento, California.

Claimant [REDACTED2] submitted a Claim Form stating that his father, [REDACTED], held Swiss bank accounts. In his claim, he identified the Account Owner as his father's brother, Karl Otto Loewenstein. Claimant [REDACTED2] stated that his father, who was born in Vienna, Austria on 9 April 1914, was a physician, and that he lived in Austria until he fled for the United States in 1938, arriving in San Francisco, California on 22 November 1938. Additionally, Claimant [REDACTED2] stated that his father married his mother, [REDACTED], on 6 December 1942 in Los Angeles, California. Claimant [REDACTED2] added that his father passed away on 28 March 1988 in Concord, California. Claimant [REDACTED2] stated that he was born on 17 May 1948 in San Francisco. Claimant [REDACTED2] is representing his siblings, [REDACTED], née [REDACTED], who was born on 2 September 1945, and [REDACTED], born on 31 January 1953, both in San Francisco.

Information Available in the Bank Record

The Bank's record consists of an extract from a suspense account ledger, dated 27 February 1953. According to this record, the Account Owner was Karl Loewenstein. The Bank's record does not indicate what type of account the Account Owner held, when it was closed, or by whom. The Bank's record indicates that the balance of the account as of 27 January 1953, after it had already been transferred to the suspense account, was 42.35 Swiss Francs.

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, but indicated that the Account Owner's residence was in an Axis or Axis-controlled country. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The names of Claimant [REDACTED1]'s father and Claimant [REDACTED2]'s uncle match the published name of the Account Owner. The CRT notes that the bank records do not contain any specific information about the Account Owner other than his name. Claimant [REDACTED1] submitted numerous documents in support of her claim, including a copy of her birth certificate which indicates her father's name as Charles Lenert; a copy of her father's Petition for Naturalization, dated 1943, which notes that his name was Charles Lenert, but that he immigrated to the United States under the name Karl Otto Loewenstein; and a copy of her family tree. The CRT notes that the name Karl Loewenstein appears only once on the February 2001 list of published accounts determined by the ICEP Investigation to be probably or possibly those of victims of Nazi persecution. The CRT also 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 Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and Claimant [REDACTED1] stated that the Account Owner was forced to flee Vienna after the Nazi annexation of Austria.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED1] has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that she is his daughter. Although there is information suggesting that the Account Owner may have additional surviving heirs (his two sons from his second marriage), the CRT has not received any other claims to this account.

Claimant [REDACTED2] has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he is his nephew.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Austria after the *Anschluss* in 1938 and immigrated to the United States in 1943, that the bank records indicate that the account was transferred to a suspense account by 1953, and given the application of Presumptions (h) and (j) contained 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 his 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 Claimant [REDACTED1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED1] has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible 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 Bank's records indicate that the value of the account as of 27 January 1953 was 42.35 Swiss Francs. According to Article 29 of Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

Division of the Award

According to Article 23 of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED1] is the daughter of the Account Owner and is representing her brother [REDACTED]; and Claimant [REDACTED2] is the nephew of the Account Owner. Accordingly, Claimant [REDACTED1] and her brother, as direct descendants of the Account Owner, are entitled to the total award amount. Claimant [REDACTED1] and her brother are each entitled to receive one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
June 3, 2003