

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Adalbert Löw-Beer and Nelly Haimann

Claim Numbers: 214213/AA¹

Award Amount: 300,664.32 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (“Claimant”) to the account of [REDACTED] and [REDACTED] (the “Account Owners”) 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 claimant, any relatives of the claimant other than the Account Owner, and the Bank have been redacted.

Information Provided by the Claimants

The Claimant submitted a claim to the Holocaust Claims Processing Office (“HCPO”), two Claim Forms to the CRT and an Initial Questionnaire to the Court in 1999 indicating that the Account Owners, Adalbert Löw-Beer and Nelly Haimann, were his [REDACTED] and [REDACTED], respectively. According to the Claimant, Adalbert Löw-Beer was born in approximately 1894 to [REDACTED] and [REDACTED], née [REDACTED] in Bekecs, Zemplén-megye, Austria-Hungary. The Claimant indicated that Adalbert had two sisters, Nelly Haimann, née [REDACTED], and [REDACTED], née [REDACTED]. The Claimant stated that Adalbert Löw-Beer lived on Damjanich u. 28b in Budapest, Hungary from 1919 until 1924, when he moved to Timisoara, Romania. The Claimant explained further that his [REDACTED] owned an electrical appliances factory in Timisoara, which developed into one of the most successful businesses of its kind in the area. The Claimant stated that because of rising anti-Jewish sentiment in Eastern Europe in the late 1930s, the Claimant’s [REDACTED] was forced to sell his share of the factory to his business partner. According to the Claimant, after [REDACTED] sold his factory, he sent his assets, mostly in the form of diamonds, to

¹ The Claimant submitted a claim numbered [REDACTED] to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned claim number [REDACTED]. The Claimant also submitted two other Claim Forms, which were registered under the Claim Numbers [REDACTED] and [REDACTED]. The CRT has determined that these three claims are duplicate claims and is treating them under the consolidated Claim Number [REDACTED].

Switzerland. The Claimant explained further that [REDACTED] told his sister, [REDACTED], and his mother, [REDACTED], that he had opened two accounts in Switzerland with approximately 10,000.00 Swiss Francs in each account.

According to the Claimant, before [REDACTED] could disclose to his mother and sister the account numbers and the names of the banks into which he had deposited his money, his home was ransacked by his own neighbors. The Claimant stated that soon thereafter the Nazis and the Russians raided his uncle's home and, as a result of the destruction of the home, no information regarding Swiss assets were ever found. According to the Claimant, [REDACTED] was deported to Auschwitz in the summer of 1944. The Claimant assumed [REDACTED] was killed there because he was never heard from after the Second World War.

The Claimant stated that [REDACTED], Nelly Haimann, survived the War in the Budapest ghetto with the Claimant's parents, and she died shortly after the War.

The Claimant stated that he was born in Budapest, Hungary on 26 June 1923, that his father was [REDACTED], and that his mother was [REDACTED], the daughter of [REDACTED] and [REDACTED] and the sister of Account Owners Adalbert Löw-Beer and Nelly Haimann.

In support of his claim, the Claimant submitted a letter dated 1 October 1946 that was addressed to him from the Bank in which the Bank acknowledged the existence of two accounts numbered [REDACTED] and [REDACTED] owned by [REDACTED].² In the letter, the Bank informed the Claimant that the accounts had been frozen. Both of these accounts had a total value of 10,176.00 United States Dollars (account number [REDACTED] had a value of 4,364.00 United States Dollars and account number [REDACTED] had a value of 5,812.00 United States Dollars). The Claimant stated that the letter was the first of many rejections he received from the Bank during his attempts to recover the assets in his relatives' accounts. In a telephone conversation with the CRT, the Claimant disclosed that, in 1957, he traveled to Zurich to visit the Bank and was informed that he could not make a successful claim to the account because of a limitation period imposed by the Bank regarding older accounts. In 1998, following the commencement of the Independent Committee of Eminent Persons investigation of Swiss banks (the "ICEP Investigation"), the HCPO learned through contacts with the Bank that the Bank had transferred funds from the account on 21 June 1950. The Bank stated that it does not know who received the assets. The Claimant stated that he was not aware of such transfer, nor did the Bank produce evidence of the alleged transfer.

Information Available in the Bank Records

The bank records consist of customer information cards and correspondence from the Bank addressed to the Claimant and to the HCPO. According to the customer information card, Adalbert Löw-Beer and Nelly Haimann jointly held account number [REDACTED]. The bank records indicate that Account Owner Adalbert Löw-Beer used an address in Timisoara, Romania and was a Romanian national. The bank records do not indicate an address for Nelly Haimann. The bank records also indicate that Adalbert Löw-Beer used the title "Dir." There is no evidence

² The CRT will treat the claim to account number [REDACTED] in a separate decision.

in the bank records that the Account Owners or their heirs closed the account and received the proceeds themselves. The customer information card does not show if or when the account at issue was closed, or to whom it was paid, nor do the bank records indicate the value of this account.

According to the correspondence from the Bank to the Claimant, dated 1 October 1946, Adalbert Löw-Beer owned two accounts, numbered [REDACTED] and [REDACTED]. There is no indication in the letter what type of accounts these were, but the Bank stated that account number [REDACTED] had a balance of 5,812.00 United States Dollars. The letter also indicates that [REDACTED] of Budapest had been appointed as the trustee of Adalbert Löw-Beer's estate, and that [REDACTED] gave power of attorney to the Claimant. The Bank further explained that the accounts were frozen because the Account Owner was Hungarian [sic].

In its correspondence with the Claimant and with the HCPO between 1998 and 1999, the Bank stated that it had transferred the assets from the account on 21 June 1950. The Bank informed the Claimant and the HCPO that it had no record indicating who received the proceeds of the account.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names of his uncle and aunt match the published names of the Account Owners for account number 4603. The Claimant has provided the numbers of the accounts and his uncle's professional title, which matches unpublished information about the account and the Account Owners contained in the bank documents.

The CRT notes that Claimant [REDACTED] filed an Initial Questionnaire with the Court in 1999, an ATAG Ernst & Young claim form, and an HCPO claim form in November 1997 asserting his entitlement to a Swiss bank account owned by Adalbert Löw-Beer, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED].

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and that Adalbert Löw-

Beer was deported to Auschwitz and was never heard from after the Second World War, and that Nelly Haimann survived the War in the Budapest ghetto.

The Claimants' Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents demonstrating that he is the [REDACTED] of Adalbert Löw-Beer and Nelly Haimann.

The Issue of Who Received the Proceeds

Given the fact that the Claimant and those members of his family who survived the Holocaust were living in Hungary in 1950, when the Bank allegedly transferred the funds in the account, and that at that time and in the immediate post-war years it would have been difficult and dangerous for the Claimant or the other members of his family to access the account from Communist Eastern Europe, and the application of Presumptions (h), (i) and (j) contained in Appendix A,³ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the Rules Governing the Claims Resolution Process (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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his uncle, Adalbert Löw-Beer, and his aunt, Nelly Haimann, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

The Bank records indicate that the value of account number [REDACTED] as of 1 October 1946 was 5,812.00 United States Dollars, which was equal to 24,875.36 Swiss Francs. In accordance with Article 37(1) of Rules, this amount is increased by an adjustment of 180.00 Swiss Francs, which reflects numbered account fees and standardized bank fees charged to the account between the beginning of 1945 and 1 October 1946, producing a total of 25,055.36 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 300,664.32 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the CRT will carry out further research on his claim to determine whether there are additional Swiss bank accounts to

³ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

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
October 24, 2002