

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Dr. Moritz Löw

Claim Number: 200193/MG

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Dr. Moritz Löw (the “Account Owner”) at the Zurich branch of [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 and two Initial Questionnaires identifying the Account Owner as her maternal grandfather, Dr. Moritz (also known as Max) Löw, who was born on 4 July 1877 in Hussowitz near Brno, Moravia, Austria-Hungary. The Claimant stated that her grandfather was married to [REDACTED] in Vienna, Austria, in 1916. The Claimant stated that Moritz Löw changed his family name from Löw to Höfer on 21 June 1930. The Claimant further stated that during the 1930s her grandfather resided at Paffrathgasse 5/3 in Vienna II, and that he was employed as a commissioner of the Austrian State Railway. According to the Claimant her grandfather also worked as a legal consultant for the Austrian tourist industry, and most likely traveled to Switzerland on business. The Claimant explained that in approximately 1938, her grandfather, who was Jewish, was forced to leave his employment with the Austrian State Railway and that his pension for that work was terminated. The Claimant further explained that on 12 March 1941, her grandfather was deported to the Lagow Ghetto in Poland, then to Ostrawice, and in 1942 to Rakowkreis Opatow, and finally to Treblinka, where he perished.

In support of her claim, the Claimant submitted her birth certificate, which indicates that her mother’s

maiden name was Höfer; her marriage certificate, which indicates that [REDACTED] was her mother; her mother's baptism certificate, which indicates that Dr. *juris* Moriz Löw was her mother's father; her mother's marriage certificate, which indicates that Max Höfer was her mother's father; her mother's death certificate; a copy of her mother's Irish registration card, dated 28 July 1939; as well as a letter, dated 18 February 1998, from the Vienna Jewish Community with details about her family's dates of birth, marriage, change of family name (from Löw to Höfer) and deportation. The Claimant stated that she was born on 17 December 1947, in Dublin, Ireland. The Claimant is representing [REDACTED], née [REDACTED], her sister, who was born on 10 August 1952 in Dublin, and [REDACTED], her brother, who was born on 20 May 1946 in Dublin.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's custody accounts database. According to this record, the Account Owner was Dr. Moritz Löw, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a custody account, numbered 8442, which was opened on 22 April 1929 and closed on 31 August 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Max Höfer, numbered 9063. These documents indicate that Dr. Max Höfer was born on 4 July 1877, that he was married to [REDACTED], née [REDACTED], that he (and his wife) converted to the Roman Catholic faith in 1917, that he was a retired railway company employee (*Bahnrat i.R.*) and then worked as a freelance advertising agent, that he resided at Paffrathgasse 5, in Vienna II, Austria, and that he was finally deported to Poland (*nach Polen*). According to these documents, Dr. Max Höfer registered with the Nazi authorities that he owned his advertising agency, which he closed down on 8 July 1938, a savings account worth 10.00 Reichsmarks, and other valuables worth 476.00 Reichsmarks; that his pension had a capitalized value of 28,440.00 Reichsmarks; and that he had debts totaling 1,681.00 Reichsmarks. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather's name and place of residence match the published name and place of residence of the Account Owner. The Claimant identified her grandfather's title "Dr.," which matches the unpublished title of the Account Owner contained in the Bank's record. In support of her claim, the Claimant submitted her mother's baptism certificate in which her father's name is identified as "Dr. *juris*. Moriz Löw." The CRT notes that the other claims to this account were disconfirmed because those Claimants failed to provide the Account Owner's doctor title.

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 (prior to his conversion to Catholicism in 1917) or believed to be Jewish, was deported to Poland and perished in Treblinka in 1942.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting her mother's baptism certificate, which shows that her mother was the Account Owner's daughter. The Claimant stated that she has two siblings, whom she is representing.

The Issue of Who Received the Proceeds

Given the deportation and death of the Account Owner as a result of Nazi persecution; that there is no record of the payment of the Account Owner's account to him; that the account was closed after the *Anschluss*; that the Account Owner and his heirs would not have been able to obtain information about his 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 (a)(ii), (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 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 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 her maternal grandfather, 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 custody 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. 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 162,500.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) 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, the Claimant is representing her two siblings in these proceedings. Accordingly, the Claimant and her siblings are each entitled to one-third of the total award amount.

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
31 December 2003