

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]
(who is also acting on behalf of [REDACTED], [REDACTED],
[REDACTED] and [REDACTED])

in re Account of Desider David Löwenbein

Claim Numbers: 214172/PY; 214999/PY; 601083/PY¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED] ([REDACTED]), (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Desider David Löwenbein (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case Claimant [REDACTED 2] has, 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 [REDACTED 1] submitted a Claim Form identifying the Account Owner as her maternal great-uncle, Desider David Löwenbein, who was married to Irma Löwenbein. Claimant [REDACTED 1] stated that her great-uncle, who was Jewish, lived in Trenèin, Czechoslovakia, with his wife and two sons, Jozef and Ladislaus Löwenbein. According to Claimant [REDACTED 1], her great-uncle was deported to a concentration camp during the Second World War. Claimant [REDACTED 1] indicated that she was born on 15 June 1930 in Ostrava, Czechoslovakia.

Claimant [REDACTED 2] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) and a Claim Form to the CRT identifying the Account Owner as her father-in-law, Desider David Löwenbein, who was born in 1875 and was married to Irma Löwenbein, née [REDACTED], in Trenèin. Claimant [REDACTED 2] stated that her father-in-law lived in Trenèin, where he was employed as a civil servant. The Claimant also stated that Desider and

¹ Claimant [REDACTED] submitted a claim, numbered B-00174, on 7 October 1997, 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 601083.

Irma Löwenbein had friends in Switzerland. According to Claimant [REDACTED 2], all of Desider and Irma Löwenbein's property was confiscated by the Nazis during the Second World War. Claimant [REDACTED 2] stated further that Desider Löwenbein and his wife, who were Jewish, were deported to the Vyhne slave labor camp in Czechoslovakia, where they both perished. Claimant [REDACTED 2] stated that Desider Löwenbein's two sons, Jozef and Ladislaus Löwenbein, managed to flee to the United States in 1941. Claimant [REDACTED 2] also stated that her husband, Jozef Löwenbein (who later changed his name to [REDACTED]) died on 19 November 1991, while Desider Löwenbein's other son, Ladislaus Löwenbein (who later changed his name to [REDACTED]) died on 22 March 1988. Claimant [REDACTED 2] stated that her husband and his brother knew that an account had been opened by their parents in Switzerland. According to Claimant [REDACTED 2], the Löwenbeins gave permission to a good friend named Georgette Klinger, who escaped to England via Switzerland, to withdraw money from their account in Switzerland to send to Jozef and Ladislaus Löwenbein, who were in Portugal at the time waiting to leave for the United States.

In support of her claim, Claimant [REDACTED 2] submitted a postcard from her parents-in-law dated 6 June 1942 to a Dr. Pawel Taub in Geneva, Switzerland, as well as an envelope addressed to Dr. Paul Taub in Geneva, Switzerland. The Claimant also included a card sent by Irma and Desider Löwenbein to Ernestina Weilova in Slovakia dated 31 August 1943. Claimant [REDACTED 2] also submitted a letter from Irma and Desider Löwenbein from the Vyhne slave labor camp dated 20 May 1943, transmitted through the Red Cross, to Ladislaus Löwenbein. Claimant [REDACTED 2] also submitted a memorial book of Jews from Trenčín who were killed between 1942 and 1945, in which the names of her parents-in-law are listed. Claimant [REDACTED 2] also submitted the court order indicating that her husband, Jozef Löwenbein, changed his name to [REDACTED], the birth and death certificates of her husband, which indicate that his parents were Desider and Irma Löwenbein of Trenčín, as well as her marriage certificate. Claimant [REDACTED 2] indicated that she was born on 12 May 1926 in Norwich, Connecticut. Claimant [REDACTED 2] is representing her daughters, [REDACTED], née [REDACTED], and [REDACTED], who were born on 26 February 1957 and 20 December 1959, respectively, in New York. Claimant [REDACTED 2] is also representing her nephews, the sons of Ladislaus Löwenbein; [REDACTED], who was born on 12 October 1960 in Arlington, Virginia; and [REDACTED], who was born on 25 November 1949 in New York, New York.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire with the Court in 1999 and an HCPO claim form in October 1997, asserting her entitlement to a Swiss bank account owned by Desider Löwenbein and Irma Löwenbein of Trenčín, Czechoslovakia.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form signed on 4 April 1928 in Trenčín, Czechoslovakia and a printout from the Bank's database. According to these records, the Account Owner was Desider David Löwenbein, who resided in Trenčín, and the Power of Attorney Holders were *Frau* (Mrs.) Irma Löwenbein, *Herr* (Mr.) Josef Löwenbein and *Herr* (Mr.) Ladislaus Löwenbein, the Account Owner's wife and two sons, respectively. The Bank's

records indicate that the Account Owner held a custody account.² The Bank's records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account.

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. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or their heirs closed the account and received the proceeds themselves.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. Her great-uncle, great-aunt and two cousins' names and place of residence match the published name and place of residence of the Account Owner and the Power of Attorney Holders. Claimant [REDACTED 1] identified Irma Löwenbein and Jozef and Ladislaus Löwenbein as the wife and two sons of the Account Owner respectively, which matches unpublished information about the Account Owner contained in the Bank's records.

Claimant [REDACTED 2] has also plausibly identified the Account Owner. The names and place of residence of her father-in-law, mother-in-law, brother-in-law and husband match the published name and place of residence of the Account Owner and the Power of Attorney Holders. Like Claimant [REDACTED 1], Claimant [REDACTED 2] has also identified the relationships between the Account Owner and the Power of Attorney Holders. Finally, Claimant [REDACTED 2] has submitted a sample of her father-in-law's signature, which matches the signature sample contained in the Bank's records.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999 and an HCPO claim form in October 1997, asserting her entitlement to a Swiss bank account owned by Desider or Irma Löwenbein of Trenčín, Czechoslovakia, 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

² The Bank's records contain a power of attorney form that references a "Titeldepot," a type of custody account.

[REDACTED 2] 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 Claimant [REDACTED 2] 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.

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. Claimant [REDACTED 1] stated that the Account Owner was Jewish and was deported to a concentration camp. Claimant [REDACTED 2] also stated that the Account Owner was Jewish and was deported to the Vyhne slave labor camp, where he perished.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting a family tree demonstrating that the Account Owner was her great-uncle. Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting documents, including a family tree, her marriage certificate, and her husband's birth and death certificates, demonstrating that the Account Owner was her father-in-law.

The Issue of Who Received the Proceeds

Given that the Account Owner and his wife were deported to a slave labor camp where they both perished; given that there is no record of the payment of the Account Owner's accounts to him; given that the Account Owner and his heirs would not have been able to obtain information about his 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 Owner, the Power of Attorney Holders 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their great-uncle and father-in-law respectively, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders nor their 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 ICEP Investigation, in 1945 the average value of an account of unknown type 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, 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 [REDACTED 2], who is the daughter-in-law of the Account Owner, is representing her daughters and her nephews, who are all the grandchildren of the Account Owner. Claimant [REDACTED 2]'s daughters and nephews, as the grandchildren and direct descendants of the Account Owner, are more entitled to the proceeds of the account than Claimant [REDACTED 2], who is related to the Account Owner by marriage, and Claimant [REDACTED 1], who is a descendant of the Account Owner's parents. Accordingly, [REDACTED], [REDACTED], [REDACTED] and [REDACTED] are each entitled to one-quarter 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
July 15, 2003