

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Dr. Max Löwenstein

Claim Number: 005370/LK

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Dr. Max Löwenstein (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case,¹ 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 identifying the Account Owner as her father, Max Mordechai Löwenstein, who was born on 13 July 1896 in Fulda, Germany, and was married to [REDACTED], née [REDACTED], in 1931 in Fulda. The Claimant stated that her father, who was a doctor, lived at Florengasse 21 in Fulda until 1938, when he and his family fled Germany to Palestine. In a telephone conversation with the CRT on 12 August 2002, the Claimant further explained that her father, who was Jewish, decided to flee with his family after the Gestapo had summoned him twice for questioning and had stationed a policeman outside his house to prevent his patients from visiting him. According to the Claimant, her father died in Haifa, Israel on 7 July 1974. In support of her claim, the Claimant submitted documents including a family tree, her father’s medical diploma from the University of Frankfurt am Main, and her father’s Israeli citizenship certification document, which identifies that he was born in Fulda, Germany, and which identifies the Claimant as his daughter. The Claimant indicated that she was born on 29 October 1932 in Fulda.

¹ The CRT notes that the Claimant did not indicate a preference with regard to confidentiality. As a matter of policy, in the absence of such selection the CRT affords the Claimant confidentiality.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Max Löwenstein who resided in Fulda, Germany. The Bank's record indicates that the Account Owner held a demand deposit account that was opened on 10 March 1932 and was closed on 20 June 1933; and a custody account, numbered 47081, that was opened on 14 March 1932 and was closed on 16 June 1933. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her father's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified her father's title and city of residence, which match unpublished information about the Account Owner contained in the Bank's record. In support of her claim, the Claimant submitted documents, including her father's medical diploma, indicating his professional title, as well as her father's certification of Israeli citizenship, indicating that he was born in Fulda, Germany, providing independent verification that the person who is claimed to be the Account Owner resided in the same town recorded in the Bank's records as the residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided cities of residence and/or professional titles that were different from the city of residence and professional title of the Account Owner. 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 and fled Germany in 1938 because of Nazi persecution. The Claimant explained that her father, who was Jewish, decided to flee with his family after the Gestapo had summoned him twice for questioning and had stationed a policeman outside his house to prevent his patients from visiting him.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents demonstrating that she is the Account Owner's daughter. These documents include the Account Owner's Israeli citizenship certification document, which identifies the Claimant as his daughter.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until 1938 and would not have been able to repatriate his accounts to Germany without their confiscation; that there is no record of the payment of the Account Owner's accounts to him; 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 (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules")(see Appendix A) and Appendix C,² 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 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 accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and 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 demand deposit account was 2,140.00 Swiss Francs, and the average value of a custody account was 13,000.00 Swiss Francs. Thus, the total 1945 average value of the accounts at issue was 15,140.00 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 189,250.00 Swiss Francs.

² Appendix C appears on the CRT II website - www.crt-ii.org.

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
6 February 2004