

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]

in re Accounts of Moriz Löwenstein

Claim Number: 208716/MBC¹

Award Amount: 211,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED 1], (the “Claimant”) to the account of Paul Loewenstein. This Award is to the published accounts of Moriz Löwenstein (the “Account Owner”), over which Paul Loewenstein (the “Power of Attorney Holder”) held power of attorney, 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father’s relative, Moricz Loewenstein, who was born in 1872. The Claimant indicated that Moricz Loewenstein had a son, Paul Loewenstein, who was born on 3 June 1910. The Claimant further indicated that Moricz Loewenstein resided in Stuttgart, Germany, and that he and his son, who were Jewish, perished in the Holocaust. The Claimant, who was a child in Hungary during the Second World War, indicated that she could not provide additional details regarding her paternal relatives in Germany, but that she did recall that they provided her family with support before the War, as her family had financial difficulties. The Claimant submitted a copy of her Hungarian identification card, indicating that her name is [REDACTED 1], née [REDACTED 1].

The Claimant indicated that she was born on 4 June 1935 in Budapest, Hungary. The Claimant is representing her brothers [REDACTED 2], who was born on 7 April 1934 in Budapest, and [REDACTED 3], who was born on 17 December 1940 in Budapest.

¹ The Claimant submitted one additional claim, which is registered under the Claim Number 208716. The CRT will treat this claim in a separate determination.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was Moriz (Moritz) Löwenstein (Loewenstein), and the Power of Attorney Holder was Paul Löwenstein (Loewenstein), and that they both resided at Salzmannweg 8 in Stuttgart, Germany. The Bank's records indicate that the Account Owner held a custody account² and another account, the type of which is not indicated. The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts.

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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's paternal relatives' names and city and country of residence match the published name and city and country of residence of the Account Owner and the Power of Attorney Holder.³ The CRT notes that the name Moriz Löwenstein appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence than the city or country of residence 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, that he resided in Nazi

² The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

³ The CRT notes that the Claimant indicated that her relative's name was "Moricz," while the Bank's records indicate that the Account Owner's name was "Moritz" or "Moriz." However, the CRT further notes that "Moricz," "Moritz," and "Moriz" are common spelling variations of the same name, and consequently finds that this discrepancy does not adversely affect the Claimant's identification of the Account Owner.

Germany, and that he perished in the Holocaust.

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, demonstrating that the Account Owner was the Claimant's paternal relative. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The CRT notes that the Claimant submitted a copy of her Hungarian identification card, which provides independent verification that the Claimant's maiden name matches the surname of the Account Owner and the Power of Attorney Holder.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany; that he and the Power of Attorney Holder perished in the Holocaust; that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the accounts; that the Account Owner's 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) 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, the Power of Attorney Holder, 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 Claimant and the parties whom she represents. 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 paternal relative, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one account of unknown type. 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 a custody account was 13,000.00 Swiss Francs ("SF"), and the average value of an account of unknown type was SF 3,950.00. Thus, the combined 1945 average value for the two accounts at issue is SF 16,950.00. 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 SF 211,875.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award under Article 23(1)(a)-(f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing her brothers [REDACTED 2] and [REDACTED 3]. Accordingly, the Claimant and her brothers 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
12 October 2007