

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]
represented by [REDACTED 4] and [REDACTED 5]

and to Claimant [REDACTED 6]
represented by [REDACTED 7]

in re Accounts of Eduard Löwenthal and Hermine Löwenthal

Claim Numbers: 400977/GO/AC; 401031/GO/AC

Award Amount: 567,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 6] (“Claimant [REDACTED 6]”) (together the “Claimants”) to the published accounts of Eduard Löwenthal. This award is to the published accounts of Eduard Löwenthal (“Account Owner Eduard Löwenthal”) and Hermine Löwenthal (“Account Owner Hermine Löwenthal”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).¹

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 Claimants, who are related by marriage, submitted Claim Forms identifying the Account Owners as their respective spouses’ grandparents, [REDACTED] and [REDACTED], née [REDACTED]. The Claimants indicated that [REDACTED] was born on 19 June, 1862 in Biebrich (Bieberich), Germany, and that [REDACTED] was born in Nördlingen, Germany. According to the Claimants, [REDACTED] and [REDACTED] had three children: [REDACTED], née [REDACTED] (Claimant [REDACTED 6]’s mother-in-law), [REDACTED]

¹ The CRT notes that, on the List of Account Owners Published in 2005 (the “2005 List”), Eduard Löwenthal is indicated as an account owner. Upon careful review, the CRT has concluded that the Bank’s records evidence that Hermine Löwenthal was a joint account owner for these accounts. Furthermore, the CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Hermine Löwenthal is indicated as an account owner. Upon careful review of the Bank’s records and the information provided by the Claimants, the CRT has concluded that the Hermine Löwenthal indicated on the 2005 List and the Hermine Löwenthal who was a joint account owner for Eduard Löwenthal’s accounts are the same person.

(Claimant [REDACTED 1]'s father-in-law), and a son, who died very young. The Claimants indicated that [REDACTED] and [REDACTED] were wine merchants and that they had vineyards in Geisenheim, Germany, under the name [REDACTED]. According to the Claimants, [REDACTED] and [REDACTED] resided at Langestrass 19, in Frankfurt am Main, Germany. The Claimants explained that [REDACTED] and [REDACTED], who were Jewish, were warned in the spring of 1937 to leave Germany, and that they fled to Brussels, Belgium, where they were able to join their son [REDACTED] and the rest of the family, who had also fled Germany. The Claimants further indicated that [REDACTED] died in Brussels on 10 May, 1938 and that [REDACTED] died in Brussels on 19 May, 1940. The Claimants indicated that [REDACTED] and [REDACTED] emigrated to New York, the United States, but were not able to specify when they emigrated. According to the Claimants, [REDACTED] died on 10 April 1974 and [REDACTED] died on 28 June 1971, both in New York.

The Claimants submitted copies of [REDACTED] and [REDACTED]'s joint will, indicating that [REDACTED] and [REDACTED] resided in Frankfurt am Main, and that they left their residual estates to their children, [REDACTED] and [REDACTED]. In addition, Claimant [REDACTED 1] submitted copies of: (1) [REDACTED]'s birth certificate, indicating that he was born on 19 June, 1862 in Wiesbaden, Germany, and that he was of Jewish origin; (2) a family book (*Familien-Stammbuch*), indicating that [REDACTED] and [REDACTED] were [REDACTED]'s parents, and that [REDACTED] had a son named [REDACTED]; (3) her father-in-law's German passport, indicating that [REDACTED] had a son named [REDACTED]; (4) her marriage certificate, indicating that she married [REDACTED]; (5) her husband's death certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED], and that he was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 6] also submitted copies of: (1) his mother-in-law's Belgian identification papers, issued on 30 November, 1940 identifying her as [REDACTED], née [REDACTED], indicating that she was of German nationality, and that she was residing in Belgium; and (2) his wife's birth and death certificates, indicating that [REDACTED] was born in Frankfurt, that her parents were [REDACTED] and [REDACTED], née [REDACTED], and that she was married to [REDACTED].

Claimant [REDACTED 1] indicated that she was born on 15 July, 1943 in New York, United States. Claimant [REDACTED 1] is representing her sons, [REDACTED 2] and [REDACTED 3], who were born on 22 July, 1968 and 30 October, 1972, respectively, both in New York. Claimant [REDACTED 6] indicated that he was born on 11 November, 1918 in Cologne, Germany.

Information Available in the Bank's Records

Accounts of Eduard Löwenthal and Hermine Löwenthal

The Bank's record consists of a customer card. According to this record, the Account Owners were Eduard Löwenthal and *Frau* (Mrs.) Hermine Löwenthal, who resided in Frankfurt am Main, Germany. The Bank's record indicates that the Account Owners held two demand deposit accounts, which were opened on 31 March, 1931 and closed on 30 June, 1934, and 31 January, 1937. In addition, the Bank's record indicates that the Account Owners held two custody

accounts, numbered [REDACTED] and [REDACTED], which were opened on 15 May, 1928, and closed on 27 January, 1937 and 30 January, 1937, respectively.

Accounts of Hermine Löwenthal

The Bank's record consists of a customer card. According to this record, Account Owner Hermine Löwenthal was *Frau* Hermine Löwenthal, who resided in Brussels, Belgium and New York, New York, the United States. The Bank's record indicates that Account Owner Hermine Löwenthal held one demand deposit account, which was opened on 31 August, 1937, and closed on 20 August, 1956. In addition, the Bank's record indicates that Account Owner Hermine Löwenthal held one custody account, numbered [REDACTED], which was opened on 31 August, 1937, and closed on 31 July, 1956.

With respect to all of the accounts held by the Account Owners, the amounts in the accounts on the dates of their closures are unknown. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts 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 two claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Their relatives' names match the published names of the Account Owners. The Claimants identified [REDACTED]'s country of residence, which matches published information about Account Owner Hermine Löwenthal contained in the Bank's records. Furthermore, the Claimants identified [REDACTED]'s city and country of residence, and [REDACTED]'s city of residence and previous city and country of residence, which matches unpublished information about the Account Owners contained in the Bank's records.

In support of their claims, the Claimants submitted documents, including: [REDACTED] and [REDACTED]'s joint will, [REDACTED]'s birth certificate, and a family book, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owners. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, that they resided in Nazi Germany, and that they fled to Belgium in the spring of 1937.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimants' spouses' grandparents. These documents include: (1) [REDACTED] and [REDACTED]'s joint will, indicating that their children were [REDACTED] and [REDACTED]; (2) a family book, indicating that [REDACTED] and [REDACTED] were [REDACTED]'s parents, and that [REDACTED] had a son named [REDACTED]; (3) [REDACTED]'s German passport, indicating that he had a son named [REDACTED]; (4) Claimant [REDACTED 1]'s marriage certificate, indicating that she married [REDACTED]; (5) [REDACTED]'s death certificate, indicating that his father was [REDACTED], and that he was married to [REDACTED], née [REDACTED]; (6) [REDACTED]'s birth and death certificates, indicating that her mother was [REDACTED], née [REDACTED], and that she was married to [REDACTED 6].

The CRT notes that, according to information provided by Claimant [REDACTED 6], the Account Owners have several surviving great-grandchildren (including Claimant [REDACTED 6]'s daughter, niece, and nephews), who have not submitted claims to the CRT and are not represented in the Claimants' claims.

The Issue of Who Received the Proceeds

With respect to the four accounts held jointly by the Account Owners that were closed in 1934 (one account) and 1937 (three accounts), given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owners were Jewish and were German nationals; that the Account Owners resided in Germany until 1939 and would not have been able to repatriate their assets to Germany without their confiscation; that there is no record of the payment of the Account Owners' accounts to them and their heirs would not have been able to obtain information about their 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 (see Appendices A and C),² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs.

With respect to the accounts held by Account Owner Hermine Löwenthal that were closed in 1956, the CRT notes that Account Owner Hermine Löwenthal died in Belgium on 19 May, 1940

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

and that her children, [REDACTED], née [REDACTED], and [REDACTED], emigrated to New York on an unknown date, which suggests that the Bank may have been contacted by Account Owner [REDACTED]'s heirs after her death to inform it of their new address. However, the CRT notes that the Bank's records contain no indication that the accounts were administered by Account Owner [REDACTED]'s heirs, or that the accounts were paid to them. Furthermore, the CRT notes that the Claimants in this case are in possession of, and provided the CRT with, virtually all the important documents relating to their families, including the Account Owners' will, dated 28 September, 1909, Account Owner [REDACTED]'s birth certificate, and the family book. Under these circumstances, the absence of any documentation regarding the heirs' contact with the Bank, as well as the absence of a date when the New York address was provided to the Bank, indicate that the New York address may have been provided to the Bank by the Account Owners as an address of convenience, even prior to the outbreak of the Second World War. Given these circumstances, and given that there is no record of the payment of Account Owner Hermine Löwenthal's accounts to her; that Account Owner Hermine Löwenthal's heirs would not have been able to obtain information about her 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Hermine Löwenthal or her 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 Claimant [REDACTED 6] and represented parties [REDACTED 2] and [REDACTED 3]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners were their respective spouses' grandparents, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that represented parties [REDACTED 2] and [REDACTED 3], as the Account Owners' great-grandchildren, have a better entitlement to the accounts than their mother, Claimant [REDACTED 1], who is the spouse of the Account Owners' grandchild.

As noted above, according to information provided by Claimant [REDACTED], the Account Owners have additional surviving great-grandchildren (Claimant [REDACTED 6]'s daughter, niece, and nephews). Although they would be more entitled to the Account Owners' accounts than Claimant [REDACTED 6], they have not submitted claims to the CRT, nor are they represented in the Claimants' claims. Their eligibility therefore is not addressed herein.

Amount of the Award

In this case, the Account Owners jointly held two demand deposit accounts and two custody accounts and Account Owner Hermine Löwenthal 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 (the “ICEP”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”), and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue is SF 45,420.00. 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 567,750.00.

Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the claim, consistent with principles of fairness and equity. In this case, the Claimants have submitted the Account Owners’ joint will, indicating that their residual estate was to be divided between their two children, [REDACTED] and [REDACTED]. Therefore, represented parties [REDACTED 2] and [REDACTED 3], as descendants of [REDACTED], are each entitled to one-fourth of the total award amount, and Claimant [REDACTED 6], who was married to a descendant of [REDACTED], is entitled to one-half of the total award amount.

As noted above, represented parties [REDACTED 2] and [REDACTED 3], the Account Owners’ great-grandchildren, are more entitled to the accounts than their mother, Claimant [REDACTED 1], who is only related to the Account Owners by marriage, and Claimant [REDACTED 1] is therefore not entitled to share in the award.

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
28 June 2006