

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to the Estate of Claimant [REDACTED 2]¹

in re Account of Samuel Löwy

Claim Numbers: 734033/LV; 710415/LV;² 209410/LV

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) to the unpublished account of Samuel Löwy and upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Clara Löwy.³ This Award is to the unpublished account of Samuel Löwy (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as the claimants have in this case, 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 and Claimant [REDACTED 2] submitted two Initial Questionnaires (“IQs”) identifying the Account Owner as Claimant [REDACTED 2]’s father and as Claimant [REDACTED 1]’s grandfather, Samuel Löwy, who was born on 13 November 1885 in Bruckneudorf (later renamed Bruck an der Leitha), Austria, and was married to [REDACTED]. The Claimants stated that Samuel Löwy had two children, Claimant [REDACTED], who was born in Rákoscsaba, Hungary on 27 March 1923 and [REDACTED], who was born on 4 November 1924 in Bruck an der Leitha. The Claimants stated that their family, who was Jewish, fled from Austria to Hungary in 1938, but was forced back to Austria,

¹ The CRT notes that Claimant [REDACTED 2] died on 1 November 2000.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaires (“IQ”), numbered HUN 0171 132 and GER 0062 140, to the Court in the United States. Although these IQs were not a Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). These IQs were forwarded to the CRT and have been assigned Claim Numbers 734033 and 710415.

³ In a separate decision, the CRT awarded the accounts of Clara Löwy to the Estate of [REDACTED 2]. See In re Accounts of Clara Löwy (approved on 6 February 2004).

where they were forced to move to the ghetto in Vienna. The Claimants further stated that their family was deported to Theresienstadt, and that from there they were deported to other camps. The Claimants stated that [REDACTED] perished in a slave labor camp, and that Samuel and [REDACTED] Löwy perished in Auschwitz. According to Claimant [REDACTED 1], her mother, [REDACTED 2], was the sole survivor of the family. In support of her claim, Claimant [REDACTED 1] submitted her identification card, identifying her mother as [REDACTED 2]. Claimant [REDACTED 1] stated that she was born on 9 June 1946 in Budapest.

Information Available in the Bank's Record

The Bank's record consists of an excerpt from the Bank's ledger. According to this record, the Account Owner was Samuel Löwy, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account.

The Bank's record indicates that the account held a balance of 3,015.00 Swiss Francs ("SF"). 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") determined that the date of the account's balance was 1921. The Bank's record does not show when the account at issue was closed.

The auditors who carried out 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 record that the Account Owner or his 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]'s grandfather's and Claimant [REDACTED 2]'s father's name and city and country of residence match the unpublished name and city and country of residence of the Account Owner. The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have 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 that he was forced to move to the ghetto in Vienna, before being deported to Theresienstadt and then to Auschwitz, where he perished.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father and Claimant [REDACTED 1]'s grandfather. The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record, and that Claimant [REDACTED 1] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 2]. The CRT also notes that Claimant [REDACTED 2] submitted a copy of her identity card, indicating that her mother's name was [REDACTED 1], which provides independent verification that the Claimant's relatives bear the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimants as a family member, and all this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Form and IQs. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in Auschwitz; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; 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 (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 Claimant [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed

account.

Further, the CRT notes that Claimant [REDACTED 2], as the Account Owner's daughter, has a better entitlement to the account than Claimant [REDACTED 1], who is the Account Owner's granddaughter and Claimant [REDACTED 2]'s daughter.

Amount of the Award

In this case, the Account Owner held one demand deposit account, which held a balance of SF 3,015.00 as of 1921. Given that the Account Owner could freely access the account between 1921 and 1938 and the balance in this account may have significantly fluctuated, the CRT has determined that it cannot rely on this balance, and consequently has decided to treat the account as an account of unknown value. 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 demand deposit account was SF 2,140.00. 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 26,750.00.

Division of the Award

As stated above, Claimant [REDACTED 2] has a better entitlement to the account than Claimant [REDACTED 1]. Accordingly, Claimant [REDACTED 1] is solely entitled to 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
18 November 2004