

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant Annelies Herzl¹

in re Account of Irma Lustig-Loewenthal and Seli Lustig

Claim Number: 214359/GO

Original Award Amount: 47,400.00 Swiss Francs

Award Amendment Amount: 113,125.00 Swiss Francs

This Certified Award Amendment is based upon the claim of Annelies Herzl (the “Claimant”) to the account of Irma Lustig-Loewenthal. This Award Amendment is to the account of Irma Lustig-Loewenthal (“Account Owner Lustig-Loewenthal”) and Seli Lustig (“Account Owner Lustig”) (together the “Account Owners”), at the Basel branch of the [REDACTED] (the “Bank”).

All award amendments are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Procedural History

On 14 May 2002, the Court approved an Award to the Claimant for one account of unknown type belonging to Account Owner Lustig-Loewenthal (the “May 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the type of the awarded account.

The May 2002 Award

In the May 2002 Award, the CRT determined that Account Owner Lustig-Loewenthal owned one account of unknown type. The CRT determined that the Claimant plausibly identified Account Owner Lustig-Loewenthal, that she plausibly demonstrated that she is related to Account Owner Lustig-Loewenthal, that Account Owner Lustig-Loewenthal was a Victim of Nazi Persecution, and that it was plausible that Account Owner Lustig-Loewenthal did not receive the proceeds of her one account. The CRT noted that the Bank’s records did not indicate

¹ On 14 May 2002, the Court approved an award to Annelies Herzl (the “Claimant”) for the account of Irma Lustig-Loewenthal (the “May 2002 Award”), which is the subject of this Award Amendment. See *In re Account of Irma Lustig-Loewenthal* (approved on 14 May 2002).

the value of the account, and therefore presumed that its value was 3,950.00 Swiss Francs (“SF”). The May 2002 Award amount was SF 47,400.00. Finally, the CRT determined that the Claimant was entitled to the entire award amount.

Information Available in the Bank’s Records

As detailed in the May 2002 Award, the bank record consists of a printout from the Bank’s database. According to this record, the Account Owner was Irma Lustig-Löwenthal, who resided in Neustadt, Germany. The bank record shows that the Account Owner held an account of unknown type. The bank record does not show if or when the account at issue was closed, to whom it was paid, or 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 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 records that the Account Owner or her heirs closed the account and received the proceeds themselves.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts (“Voluntary Assistance”). Subsequent to the May 2002 Award, the Bank provided the CRT with additional documents. These documents consist of an agreement regarding the opening of a joint account (*Vertrag betreffend eine gemeinschaftliche Rechnung*), signed on 10 October 1928 in Basel; two signed confirmations of the receipt of general conditions applying to custody accounts, which were signed on 7 October 1928 and 21 October 1928, respectively, in Neustadt; and the Bank’s correspondence which was exchanged pursuant to the Federal Decree of 20 December 1962 (the “Federal Decree”), according to which the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (“the 1962 Survey”).

According to these records, the account at issue was a custody account, numbered 33162, which was opened on 10 October 1928. The records show that the account was jointly owned with Irma Lustig-Löwenthal’s husband, *Herr* (Mr.) Seli Lustig, who resided in Neustadt. These additional records do not indicate the ultimate disposition of this account or its value.

The CRT’s Analysis

Amount of the Award Amendment

Based on review of the additional information provided by Bank 1, the CRT has determined that the account identified as an account of unknown type was, in fact, a custody account. No value information is available for this 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 similar types of

accounts in 1945 is used to calculate its current value. Based upon the investigation conducted by the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), in 1945 the average value of a custody account was SF 13,000.00.

In the December 2004 Award, this account was valued as an account of unknown type with a value of SF 3,950.00. The difference this amount and the value of a custody account is SF 9,050.00. 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 an award amendment amount of SF 113,125.00.

Certification of the Award Amendment

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
16 April 2010