

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Ben-Tsiyon Finsilber, Esq.

and to [REDACTED 2]

in re Account of Lejbus Berek Mandelbaum

Claim Numbers: 001681/HB; 712262/HB¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Leib (Lejbus) Mandelbaum, and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Lea Mandelbaum, Leib Mandelbaum, Chaya Lermann, Shmuel Lermann, Yosef Sharf, Moshe Goldberg, and Velva Blumenfeld.² This Award is to the published account of Lejbus Berek Mandelbaum (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).³

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.

¹ [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HEB-0032188, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those IQs 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). The IQ was forwarded to the CRT and has been assigned claim number 712262.

² The CRT did not locate an account belonging to Lea Mandelbaum, Chaya Lermann, Shmuel Lermann, Yosef Sharf, Moshe Goldberg, or Velva Blumenfeld in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

³ The CRT notes that the Account Owner’s name was published at least twice, first appearing as “Lejbus Berek Mandelbaum” on the list of account owners reported in the 1962 Survey (further defined in the body of this award) (the “1962 Survey List”), which was published by the Swiss Government on 19 January 1999; and as “L. Berek Mandelbaum” on the List of Account Owners Published in 2005 (the “2005 List”).

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her paternal grandfather, Leibl (Lejbus, Leibus) Mandelbaum (Mandelboim), who was born in Warsaw, Poland, and was married to [REDACTED]. According to Claimant [REDACTED 1], her grandfather, who was Jewish, resided at 96 Fabia street in Warsaw, where he also owned a shoe store. Claimant [REDACTED 1] explained that her grandfather had four children: [REDACTED], who was born in 1917 in Warsaw and died in 1992 in Minnesota, the United States; [REDACTED], who was born in Warsaw and died in Dallas, Texas, the United States; [REDACTED], née [REDACTED], who was born in 1914 in Warsaw and died in 2000 in Nahariya, Israel; and [REDACTED], who was born Warsaw and died in 1943 in Novosibirsk, the Union of Soviet Socialist Republics (now Russia). Claimant [REDACTED 1] further indicated that her paternal grandparents were murdered in Warsaw by Nazis during the Second World War. Claimant [REDACTED 1] submitted a copy of her own marriage certificate indicating that her maiden name is [REDACTED]. Claimant [REDACTED 1] indicated that she was born in 1938 in Warsaw.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as his mother’s cousin, Leib Mandelbaum, who was born in 1895 in Buzowiec, Poland. According to Claimant [REDACTED 2], his relative, who was Jewish, resided in Buzowiec, had two children, and owned a dairy business. Claimant [REDACTED 2] explained that between 1939 and 1940 his relative was forced to perform slave labor and that in 1940 he perished in a concentration camp. Claimant [REDACTED 2] indicated that he was born on 23 March 1948 in Radowo, Poland.

Information Available in the Bank’s Records

The CRT notes that the auditors who carried out the investigation of the 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 report an account belonging to Lejbus Berek Mandelbaum during their investigation of the Bank. The documents evidencing the account belonging to Lejbus Berek Mandelbaum were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), 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”). In the records of the Swiss Federal Archive in Bern,

Switzerland, there are documents concerning the assets of Lejbus Berek Mandelbaum, numbered 155. These records indicate that the Account Owner held a demand deposit account at the Bank and that, as of 1 September 1963, the amount in the account was 867.00 Swiss Francs (“SF”). The Swiss Federal Archive records indicate that the account was reported by the Bank as a doubtful case (“*Zweifelsfall*”) in the course of the 1962 Survey. The records do not contain information about the disposition of this account.

The Swiss Federal Archive records pertaining to the Account Owner also contain a letter, dated 7 September 1967, from the Registration Office for the Assets of Missing Foreigners, Federal Justice Department (*Meldestelle für Vermögen verschwundener Ausländer, Eidgenössische Justizabteilung*), to Mr. K. Mandelbaum in Berlin, Germany, regarding a 1964 claim to the Account Owner’s account by Dr. Israel Mandelbaum and Mrs. Djana Fajgenberg. This letter indicates that the Registration Office would not pursue the claim without further information as to the fate of the Account Owner.

There is no further evidence in the Swiss Federal Archive records regarding the 1964 claim. Nor is there any evidence 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]’s grandfather’s name, and Claimant [REDACTED 2]’s relative’s name match the published name of the Account Owner.⁴ The CRT notes that the records from the Swiss Federal Archive do not contain any specific information about the Account Owner other than his name.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a Page of Testimony submitted by Claimant [REDACTED 2]’s father, [REDACTED], in 1999, which indicates that Leib Mandelbaum was the cousin of [REDACTED]’s wife, that he

⁴ The CRT notes that the Account Owner’s first name was Lejbus and that Claimant [REDACTED 2] indicated that his relative’s name was Leib. The CRT further notes that Leib is a variation of the name Lejbus and concludes that this discrepancy does not adversely affect Claimant [REDACTED 2]’s identification of the Account Owner. Additionally, the CRT notes that neither Claimant identified the Account Owner’s middle name “Berek” which was published in both the 1962 Survey List and the 2005 List. However, given that Claimant [REDACTED 1] was an infant during the Second World War, and that Claimant [REDACTED 2] was not born until several years after the War, the CRT finds it plausible that neither of the Claimants would know the middle name of their relative.

was born in 1895 in Buzowietc, that he owned a dairy business, and that he perished in a concentration camp. This information matches the information about the Account Owner provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified information about the Account Owner that is available in the records from the Swiss Federal Archive; that there is no evidence that the 1964 claim to this account was successful; that there is no additional information in the records from the Swiss Federal Archive which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because those claimants provided a different first name than the first name of the Account Owner, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he resided in Nazi-occupied Poland, and that he was murdered in Warsaw by Nazis during the Second World War.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he resided in Nazi-occupied Poland, and that he perished in 1940 in a concentration camp. As noted above, a person named Leib Mandelbaum was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather. The CRT further notes that Claimant [REDACTED 1] submitted a copy of her marriage certificate, which provides independent verification that Claimant [REDACTED 1]'s maiden name is identical to the family name of the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2] has also plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s mother's cousin. The CRT notes that Claimant [REDACTED 2]'s father submitted a Page of Testimony to Yad Vashem in 1999 identifying Leib Mandelbaum as his relative. The CRT notes that Claimant [REDACTED 2] indicated that the Account Owner may have other surviving relatives, but that because they are not represented in Claimant [REDACTED 2]'s claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in the Holocaust; 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 was registered in the 1962 Survey, which demonstrates that it still existed as of that date, years after the Account Owner perished; that the Account Owner and his heirs would not have been able to obtain information about the 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; given the lack of evidence that the 1964 claim to this account was successful; and given the application of Presumption (h), 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 the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her paternal grandfather, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his mother's cousin, and those relationships justify 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.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The records from the Swiss Federal Archive indicate that the value of the demand deposit account as of 1 September 1963 was SF 867.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 1,152.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the account documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these

Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total Award amount, and Claimant [REDACTED 2] is entitled to one-half of 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
26 November 2008