

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Léon Nirenberger

Claim Number: 224156/HS

Award Amount: 26,750.00 Swiss Francs

This decision is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Léon Nirenberger (the “Account Owner”) at the Geneva 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 his father, Léon Nirenberger, who was born on 9 February 1906 in Lodz, Poland, and was married to [REDACTED], née [REDACTED], on 7 March 1938 in Chorzow, Poland. The Claimant stated that his father, who was Jewish, lived in Warsaw, Poland, where he owned *Primavera Co.*, a textile business. The Claimant further stated that after the Nazi occupation of Warsaw, the Gestapo searched for his father and his father’s business was taken over and destroyed. The Claimant explained that when the Second World War began, or shortly thereafter, his father escaped from Poland to France, and was later imprisoned by the Nazis in a camp in France. The Claimant indicated that on an unknown date, his father escaped from the camp in France and fled to Switzerland, where he was placed in a refugee camp and helped to build roads. The Claimant stated that he remained in Poland during the Second World War with his mother, who was Catholic, that that he did not meet his father until he was eight years old, and that his parents never spoke about their life during the War. The Claimant further stated that his father remained in Switzerland until 1947, when he was reunited with his family. According to the Claimant, his parents obtained French citizenship after the Second World War and resided in France. The Claimant stated that his mother died on 17 September 1964 in Vigneaux, France, and his father died on 6 August 1987 in Neuilly-sur-Seine, France.

Additionally, the Claimant indicated that he is his parents’ only child and that he was

born in Warsaw on 14 March 1939.

In support of his claim, the Claimant submitted numerous documents, including his parents' Polish and French identity papers, identifying their names as Leon Nirenberger and [REDACTED], née [REDACTED], their nationalities as Polish, and their city of residence as Warsaw; the Claimant's own birth certificate and French identification card, dated 1950, which together indicate that the Claimant was born on 14 March 1939 in Warsaw to Leon Nirenberger and [REDACTED], née [REDACTED], who resided at Krasickiego 7 in Warsaw; a picture of the Claimant's father's business in Warsaw and pictures of his parents and of himself as an infant. Handwritten notations on several of these pictures indicate that the Claimant's father was in Paris, France, on 9 October 1939. The Claimant also submitted residence registration receipts, dated in 1942 and 1944, showing that the Claimant and his mother resided in Warsaw. Additionally, the Claimant submitted his own temporary passport issued in Berne, Switzerland, which indicates that the Claimant resided in Biel-Bienne, Switzerland, in December 1947. Other documents submitted by the Claimant indicate that the Claimant and his parents resided in France from 1948 onward. Finally, the Claimant submitted his own United States certificate of naturalization indicating that he became a United States Citizen in 1964. Several of the documents submitted by the Claimant contain samples of his father's signature.

Information Available in the Bank's Records

The Bank's records consist of a customer card, a sample of the Account Owner's signature, and a printout from the Bank's database. According to these records, the Account Owner was Mr. Léon Nirenberger, a Polish national, who lived at Krasickiego 7/2 in Warsaw, Poland. The Bank's records indicate that the Account Owner held a numbered demand deposit account numbered B.F. 21795.¹ Moreover, these documents show that the Account Owner instructed the Bank to hold his mail.

The Bank's records do not show when the account at issue was closed, to whom it was paid, nor do these records indicate 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 ("ICEP" or 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 records that the Account Owner or his heirs closed the account and received the proceeds themselves.

¹ The CRT notes that 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") reported two accounts for this Account Owner on the list published in February 2001 of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP List"). This Award addresses one of those accounts. The Bank's records are ambiguous regarding the existence of the second account. The CRT is conducting further research regarding the second account and will treat the claim to it in a separate decision.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant provided documents indicating his father's name, city and country of residence, which match published information about the Account Owner. Moreover, the Claimant provided documents indicating the name of the street where his father lived and his father's nationality, which match unpublished information about the Account Owner contained in the Bank's records. Finally, the Claimant submitted samples of his father's signature, which match the Account Owner's signature sample contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Leon Nirenberger, and indicates that he was born on 9 February 1906 and that he was a Polish national, which matches the information about the Account Owner provided by the Claimant. Additionally, the database indicates that Leon Nirenberger was Jewish and/or Catholic and that he entered Switzerland as a refugee on 2 October 1942, which is consistent with information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, the CRT notes that there are no other claims to this account.

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 lived in Poland at the time of the Nazi invasion. The Claimant further stated that the Account Owner's business was taken over and destroyed by the Nazis. Moreover, the Claimant stated that the Account Owner was imprisoned by the Nazis in a camp in France and was subsequently interned at a refugee camp in Switzerland. As noted above, a person named Leon Nirenberger was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting numerous documents, including his own birth certificate and French identification card, dated 1950, showing that he is the Account Owner's son. There is no information to indicate that the Account Owner has other surviving heirs who have filed a claim.

The Issue of Who Received the Proceeds

In this case, the CRT notes that discriminatory measures against Poland's Jewish citizens

commenced soon after the Nazi invasion of Poland on 1 September 1939. In addition to murder, deportation, and forced labor, these measures included the confiscation of property and special flight taxes for people attempting to leave Poland.

Given the above, and given that the Bank's records indicate only a Polish address for the Account Owner; given that the Account Owner fled Poland after the Nazi invasion; given that the Account Owner was imprisoned by the Nazis in a camp in France and fled to Switzerland as a refugee in October 1942, at a time when Swiss authorities confiscated refugee-owned assets, including bank accounts;² given 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; given 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 the Claimant. 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 his 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.

Amount of the Award

In this case, the Account Owner held one demand deposit account. Pursuant to Article

² Switzerland's Federal Council Decree of 12 March 1943 authorized the confiscation of assets belonging to refugees in Switzerland. The Decree applied retroactively to refugees who entered Switzerland after 1 August 1942, and provided that assets exceeding 100 Swiss Francs were to be put under the control of the Swiss Federal authorities. See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"), at 158-160. According to this Report, Swiss banking secrecy laws did not prevent the Federal Police Division from finding bank accounts owned by refugees. *Id.* at 159. Moreover, refugees who did not hand over their assets to the Swiss authorities ran the risk of being imprisoned or deported back into Nazi-controlled Europe. *Id.* at 158. Additionally, in some cases confiscated refugee assets disappeared, although "[a]s a rule refugees were handed back their assets upon leaving Switzerland." *Id.* at 159. The Bergier Final Report continues: "It must be said, however, that in the meantime [between confiscation and return of the assets] most of the balances had decreased considerably. Apart from the repayment for their keep, this can also be explained by the high administrative fees levied by the bank [*Swiss Volksbank*, charged with managing confiscated refugee assets during the period]." *Id.*

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 2,140.00 Swiss Francs. 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 26,750.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim. In this case, the Claimant indicated that the Account Owner's wife passed away in 1964 and that he is the only child of the Account Owner. Accordingly, the Claimant is entitled to 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 his claim to determine whether there are additional Swiss bank accounts to which he 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 May 2004