

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

**in re Account of Angelus Simon, Rosa Simon-Lang,
Grete Koretz-Lang, Ernst Koretz, and Susan Koretz**

Claim Number: 501869/MC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Angelus Simon (“Account Owner Angelus Simon”), Rosa Simon-Lang (“Account Owner Rosa Simon-Lang”), Grete Koretz-Lang (“Account Owner Koretz-Lang”), Ernst Koretz (“Account Owner Ernst Koretz”), and Susan Koretz (“Account Owner Susan Koretz”) (together the “Account Owners”) at the Zurich branch of 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 Claimant

The Claimant submitted a Claim Form identifying Account Owner Angelus Simon as her maternal grandmother’s brother, Angelus Simon; Account Owner Rosa Simon-Lang as Angelus Simon’s wife, Rosa Simon, née Lang; Account Owner Koretz-Lang as Angelus and Rosa Simon’s only daughter, Grete (Marketa) Koretz (Koretz-Lang); Account Owner Ernst Koretz as Grete’s husband Ernst Koretz, and Account Owner Susan Koretz as Grete and Ernst’s daughter Susan Koretz. The Claimant stated that the Account Owners were Jewish, and that they all resided in Karlsbad, Czechoslovakia (today Karlovy Vary, the Czech Republic). The Claimant

¹ 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”), the names of Angelus Simon, Grete Koretz-Lang, and Rosa Simon-Lang are published as “Angelus Simon, *Selig*” (“deceased”); “Grete Koretz-Lang, *Erben*” (“heirs”), and “Rosa Simon-Lang, *Selig*” (“deceased”). The CRT notes that the names were published in such a manner because the ICEP auditors reported the existence of one account based upon post-War inquiries with the Bank regarding assets potentially held by these individuals, who, by that time, had all passed away or perished.

explained that her maternal grandmother was [REDACTED], née [REDACTED], who was the sister of Angelus Simon.

The Claimant explained that Grete Koretz-Lang, who was born on 31 August 1899 in Karlovy Vary, was married to Dr. Ernest Koretz, who was an attorney. According to the Claimant, Grete and Ernst Koretz had one daughter, Susan Koretz, who was born on 10 June 1933. The Claimant explained that Angelus Simon passed away prior to the Second World War, but that his wife Rosa Simon-Lang, their daughter Grete, her husband Ernst, and their daughter Susan all perished in the Holocaust.

In support of her claim, the Claimant submitted copies of:

- (1) her mother's Israeli identity card, indicating that [REDACTED] was the daughter of [REDACTED] and [REDACTED] [*sic*], that she was born on 1 April 1896, and that she died on 18 December 1978;
- (2) a Page of Testimony submitted by her mother [REDACTED] to the Yad Vashem memorial regarding her cousin Grete Koretz, née Simon, indicating that Grete Koretz's parents' names were Angelus and Rosa Simon, that she was born on 31 August 1899 in Karlsbad, that her husband's name was Ernest, and that her daughter's name was Suzana, and indicating that she lived in Prague during the Second World War;
- (3) a Page of Testimony submitted by her mother [REDACTED] to the Yad Vashem memorial regarding Rosa Simon, née Lang, indicating that she was born in 1875, that she resided in Karlsbad, that she was already a widow during the Second World War, and that she lived in Prague during the Second World War; and
- (4) a Page of Testimony submitted by her mother [REDACTED] to the Yad Vashem memorial regarding Ernst Koretz, indicating that he was born in 1893 in Egrej, Romania, that his wife's name was Greta Simon, that he had a daughter named Suzana, that he was a lawyer in Karlsbad, and that he lived in Prague during the Second World War.

The Claimant indicated that she was born on 2 May 1928 in Teplitz Schönau (today Teplice, the Czech Republic).

Information Available in the Bank's Records

The Bank's records consist of internal Bank memoranda, correspondence between the Bank and an heir of the Account Owners and his attorney, and a report from 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").

According to these records, the ICEP auditors reported the existence of an account based upon repeated inquiries to the Bank from a Mr. Frank Lang and his legal representative regarding assets that had potentially been held at the Bank by his relatives Angelus Simon, Rosa Simon-Lang, Ernst Koretz, Susan Koretz, and Grete Koretz-Lang. The auditors noted that a handwritten

note made by a Bank employee on 14 June 1946 on one of these letters of inquiries appears to indicate the existence of an account of unknown type, denominated in United States Dollars (“US \$”) held by at least one of these individuals.

The earliest record in the correspondence is dated 14 June 1946. In that letter, Paul L. Weiden, an attorney from New York, New York, wrote to the Bank in English, stating that he represented [REDACTED], an American citizen who was “either the sole heir or one of the principal heirs” of Rosa Simon, née Lang, who was the widow of Angelus Simon and the mother of Gretl [sic] Koretz, née Simon. Mr. Weiden wrote that Angelus Simon owned a large jewelry store in “Karlstad” [sic], Czechoslovakia, and requested that the Bank provide him with any information regarding accounts that Rosa Simon, Angelus Simon, or Gretl Koretz had held at the Bank. He stated that his information indicated that there was a distinct possibility that the parties, all of whom were now deceased, had held accounts at the Bank. The letter is typewritten, but contains handwritten notations in its margin, apparently written by a Bank employee, that read “\$147.--” and “Legal Department” (“*Rechtsbureau*”).

The Bank’s records also contain the Bank’s letter in response to Mr. Weiden, dated 30 December 1946, addressed to him at a hotel in Zurich. In that letter, the Bank wrote that, in reference to the recipient’s recent visit to the Bank, “we would inform you that, as far as our investigations show, no assets are deposited with the Zurich Office of our bank in the names of the deceased persons mentioned before [Angelus Simon, Mrs. Rosa Simon, or Mrs. Gretl Koretz, née Simon]; the latter neither rented a safe here.”

Mr. Weiden responded to the Bank in a letter dated 28 January 1947. In that letter, Mr. Weiden thanked the Bank for “the courtesy extended to me during my recent trip to Zurich.” He wrote that:

At that time you promised to write to me concerning the status of the Simon account. You told me that a thorough investigation in the matter had resulted in only very little money being found. However, you were to confirm this in writing. May be that your letter was misplaced by the hotel, or by the post. In any event, you would oblige me if you would be kind enough to write to me to the above address.

According to a note in the file, on 5 February 1947, the Bank forwarded a copy of its 30 December 1946 letter to Mr. Weiden to his address in New York.

On 22 November 1949, Mr. Weiden again wrote to the Bank, this time in German. In that letter, Mr. Weiden wrote that he was again in Zurich, and that he would appreciate a representative of the Bank contacting him to discuss the assets of Angelus Simon, Rosa Simon, Ernst Koretz, and Margarete Koretz. Mr. Weiden wrote that “if no accounts at all exist at the Bank in the relevant individuals’ names, either directly or indirectly, then please inform me. However, I believe that a not-insubstantial account existed at your Bank [in their names].” (“*Sollte natürlich überhaupt kein Konto bei Ihnen bestehen, in welchem die Beteiligten direkt oder indirekt interessiert waren, so wollen Sie vielleicht dies kurz hinterlassen. Jedoch nehme ich an, dass ein nicht unsubstanzielles Konto bei Ihnen bestanden hat.*”) The letter, which is typewritten, contains a

handwritten note at the bottom, which reads: “the matter has already been investigated, and Mr. Weiden has been informed both verbally and in writing that no assets [currently] exist with us.” (*“Die Sache ist schon 1946 untersucht worden, und Paul L. Weiden erhielt schriftlich und mündlich Auskunft, dass keine Aktiva bei uns vorhanden sind.”*)

The Bank’s records also contain an internal Bank memorandum dated 4 August 1950 regarding the Estate of Angelus Simon of Prague. The memorandum states that the referenced individual had died, and requests the various departments of the Bank to indicate to the Bank’s legal department whether any assets existed in that individual’s name. The memorandum instructed that if such assets existed, they were to be blocked. According to notations on this memorandum, none of the various departments reported any assets currently held in that name.

The records also contain an internal bank memorandum, dated 10 August 1950, written by the Bank’s legal department, which states in German:

[o]n the occasion of any further visit from Mr. [REDACTED] of New York in relation to the assets of Angelus Simon, Rosa Simon, or Grete Simon, Ernst Koretz, please simply tell him verbally the following (do not confirm in writing):

“There are no assets in the names of the four mentioned individuals in our branch [of the Bank], as far as our investigations can tell.”

Mr. Lang will not likely request further investigations regarding assets that may have existed earlier. If that does happen, we will have to deny his request on the basis of basic considerations.

-The Legal Department.

(Anlässlich eines weitem Besuchs des Herrn [REDACTED], New York, wegen Fragen betr. die Verlassenschafts Angelus Simon, Rosa Simon, Grete Simon, Ernst Koretz ist ihm einfach folgendes zu sagen (nicht schriftlich zu bestätigen):

“Auf den Namen der von ihm erwähnten 4 Personen liegen bei unserm hiesigen Sitz, soweit unsere Nachforschungen ergeben haben, keinerlei Aktiven.”

Herr Lang wird wahrscheinlich keine weitem Recherchen über evtl. früher vorhanden gewesene Vermögenswerte verlangen. Soll dies geschehen, so müssen wir es aus grundsätzlichen Erwägungen ablehnen seinem Begehren zu entsprechen.

-Rechtsbureau.)

[All emphasis in original]

The Bank’s records contain a letter in English dated 14 September 1950 from [REDACTED] of New York to the Assistant Manager of the Bank. In that letter, Mr. [REDACTED] stated that he had been unable to visit the Bank as planned, and therefore had been unable to discuss with the Bank the matter of assets possibly belonging to his relatives. He wrote that the accounts might have been held under the names of Angelus Simon; his wife Rosa Simon, née Lang; their daughter Grete Koretz-Lang; her husband Ernst Koretz; or their daughter Susan Koretz. He explained that all of the above lived in Karlsbad, Czechoslovakia, but had subsequently moved to Prague. Mr. Lang stated that all of those individuals died “as a result of the war.” Mr. Lang also

wrote that he was in possession of all of the legal documents indicating that those individuals had died, and that he was their legal heir, and indicated that he would be happy to send the documents to the Bank if they found it worthwhile.

The final letter contained in the Bank's records is a letter in German from the Bank to Mr. [REDACTED], dated 19 September 1950. The letter is one sentence long, and confirms receipt of a letter from Mr.[REDACTED] dated 14 September 1950. It explains that, according to the investigations that the Bank had undertaken since his last visit, there were "currently no assets in the names of the referenced individuals in our branch of the Bank" ("*...und teilen Ihnen auf Ihre Anfrage mit, dass, nach den von uns seit Ihrem letzten Besuche vorgenommenen Erhebungen, auf die Namen der von Ihnen erwähnten Personen bei unserem Sitz zur Zeit keinerlei Aktiven liegen.*")

As noted above, based upon the handwritten note made by a Bank employee on the letter from Mr. Weiden dated 14 June 1946, the auditors reported the existence of an account of unknown type, denominated in United States Dollars ("US \$") held by at least one of the individuals for whom information had been sought in the repeated inquiries to the Bank. 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 records that the Account Owners or their heir(s) closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's mother's cousin's name and country of residence match the published name and country of residence of Account Owner Koretz-Lang; the Claimant's maternal grandmother's brother's name and city and country of residence match the published name, city, and country of residence of Account Owner Angelus Simon; and the Claimant's maternal grandmother's sister-in-law's name and city and country of residence match the name and city and country of residence of Account Owner Rosa Simon-Lang. The Claimant identified Account Owner Koretz-Lang's cities of residence, Account Owner Angelus Simon and Account Owner Rosa Simon-Lang's second cities of residence, and the relationship between all three of the Account Owners, which matches unpublished information about the Account Owners contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including Yad Vashem Pages of Testimony submitted by her mother regarding Grete Koretz and Rosa Simon-Lang, providing independent verification that the persons who are claimed to be Account Owner Koretz-Lang and Account Owner Rosa Simon-Lang had the same names and resided in the same towns recorded in the Bank's records as the names and cities of residence of Account Owner Koretz-Lang and Account Owner Rosa Simon-Lang.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes Pages of Testimony submitted by the Claimant's mother prior to her death in 1978 for both Grete Koretz and Rosa Simon (copies of which were submitted with the Claimant's claim), which indicate that Grete Koretz's parents were Angelus and Rosa Simon, that she was born on 31 August 1899 in Karlsbad, that her husband's name was Ernest, and her daughter's name was Suzana, and indicating that she lived in Prague during the Second World War, and which also indicate that Rosa Simon, née Lang, resided in Karlsbad, and that she lived in Prague during the Second World War, all of which matches the information about Account Owner Grete Koretz-Lang and Account Owner Rosa Simon-Lang provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Rosa Simon-Lang, Account Owner Koretz-Lang, Account Owner Ernst Koretz, and Account Owner Susan Koretz were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they perished in the Holocaust. While the Claimant indicated that Account Owner Angelus Simon died prior to the Second World War, the CRT notes that his wife and daughter, who were his direct heirs, were Victims of Nazi Persecution.

As noted above, persons named Rosa Simon and Grete Koretz were included in the CRT's database of victims.

The Claimant's Relationships to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information, demonstrating that Account Owner Angelus Simon was the Claimant's maternal grandmother's brother, that Account Owner Rosa Simon-Lang was the Claimant's grandmother's sister-in-law, that Account Owner Koretz-Lang was the Claimant's mother's cousin; and that Account Owners Ernst Koretz and Susan Koretz were the Claimant's mother's cousin's husband and child, respectively. The CRT notes that the Bank's records indicate that the Claimant may have other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owners' account in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records; and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess, and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that a Bank employee made a handwritten notation on the 14 June 1946 letter received from the representative of one of the Account Owners' heirs that indicates that assets totaling US \$147.00 were held or had been held at the Bank under at least one of the Account Owners' names. According to the letter from Mr. Weiden dated 28 January 1947 contained in the Bank's records, this information was confirmed verbally by the Bank to Mr. Weiden during his visit to the Bank in Zurich in approximately December 1946. The records further indicate, however, that by 1950, the Bank refused to provide any further information to the heirs regarding these assets; that the Legal Department recommended that no information regarding this account be given in writing; that the Bank specify in all future correspondence with the heirs that there were no assets existing at the present time only and only at the main branch of the Bank; that the Bank surmised that the heirs were unlikely to inquire about whether assets belonging to the Account Owners had previously existed at the Bank; and that if they did so inquire, such inquiries should be declined.

Given that the Account Owners perished in the Holocaust; that there is no record of the account other than the notation on a letter of inquiry, no record of payment of the Account Owners' account to them, nor any record of a date of closure of the account; that the Bank's records indicate that the Account Owners' heir was not able to obtain complete 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; and given the application of Presumptions (e), (h), and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their 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 Account Owner Angelus Simon was the Claimant's maternal grandmother's brother, that Account Owner Rosa Simon-Lang was the Claimant's grandmother's sister-in-law, that Account Owner Koretz-Lang was the Claimant's mother's cousin, and that Account Owners Ernst Koretz and Susan Koretz were the Claimant's mother's cousin husband and child, respectively, 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 account.

Amount of the Award

In this case, the Account Owner held one account of unknown type, which had a balance as of 14 June 1946 of US \$147.00, which was equivalent to SF 629.16.² In accordance with Article 31(1)

² The CRT uses official exchange rates when converting currencies.

of the Rules, this amount is increased by an adjustment of SF 30.00, which reflects standardized bank fees charged to accounts of unknown type between 1945 and 1946. Consequently, the adjusted balance of the account is SF 659.16. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of this amount 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 49,375.00.

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 2010