

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3],
[REDACTED 4], and [REDACTED 5]

**in re Account of Ludwig Thalheimer
and Account of Ludwig Thalheimer, Josefine Thalheimer, and Walter Thalheimer**

Claim Number: 501725/MBC

Award Amount: 73,314.25 Swiss Francs

This Certified Award is based upon the claim of Ludwig (Lodovico) Thalheimer (the “Claimant”) to the accounts of Ludwig Thalheimer (“Account Owner Ludwig Thalheimer”). This award is to the published account of Ludwig Thalheimer at the Zurich branch of the [REDACTED] (“Bank I”), and to the unpublished account of Account Owner Ludwig Thalheimer, Josefine Thalheimer (“Account Owner Josefine Thalheimer”), and Walter Thalheimer (“Account Owner Walter Thalheimer”) (together, the “Account Owners”) at the [REDACTED] (“Bank II”).

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 banks have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Ludwig Thalheimer as his paternal grandfather, Dr. Ludwig Thalheimer, who was born on 19 January 1887 in Frankfurt, Germany, and Account Owner Josefine Thalheimer as his paternal grandmother, Josefine Thalheimer, née Knoll, who was married to Dr. Ludwig Thalheimer on 6 November 1919 in Bozen, Italy. The Claimant identified Account Owner Walter Thalheimer as his father, Walter Thalheimer, who was the only child of Ludwig and Josefine Thalheimer. The Claimant stated that his grandparents, who were Jewish, resided in Munich, Germany with their son (the Claimant’s father). The Claimant explained that his grandfather was a medical doctor and that in 1938 he was interned in the Dachau concentration camp. According to the Claimant, his grandfather was released, and he and his family fled to Italy, where Ludwig and Walter were later arrested by Nazi authorities. The stated indicated that his father and grandfather were able to escape incarceration, and that in October 1943, the family sought refugee status in Switzerland. The Claimant indicated that they were first placed in a refugee camp in

Bremgarten, Switzerland and subsequently moved to an apartment at Antonigasse 53 in Bremgarten, where they resided until 31 August 1945, when they emigrated to Bozen, Italy.

The Claimant stated that his grandfather died on 10 June 1956 in Bozen, that his grandmother died on 1 February 1980 in Bozen, and that his father died on 22 March 1996 in Bozen.

In support of his claim, the Claimant submitted copies of an archival record numbered 15255 from the Swiss Federal Archive in Bern, Switzerland, concerning his grandfather, which the Claimant obtained from the Swiss Federal Archive. These records contain documents relating to the residency of Ludwig Thalheimer, Josefine Thalheimer, and Walter Thalheimer in Switzerland.

These records indicate that Dr. Ludwig Thalheimer, who was born on 19 January 1887 in Frankfurt, was married to Josefine Thalheimer, née Knoll, with whom he had a son, Walter Thalheimer; and that they resided in Munich until 1938, when Dr. Ludwig Thalheimer was interned in Dachau. The records further indicate that the family was able to flee to Trento, Italy, from Germany, but that in September 1943, Ludwig Thalheimer and his son Walter were arrested by German officers in Italy. According to the records, the two managed to escape incarceration and on 10 October 1943, the family crossed the border into Switzerland. The records show that the family was interrogated at the Swiss border, and the family's cash assets were taken from them. The Swiss Archive records include information regarding the subsequent deposit of these assets at Bank II, which is further described below.

The Swiss Archive records indicate that as refugees, the Thalheimer family was first placed in a refugee camp in Bremgarten; however on 28 February 1944, an application was submitted to the Federal Division of Police in Bern, requesting that the family be granted permission to relocate from the refugee camp in Bremgarten, to the *Josefanstalt (Josefsheim)*, a charitable institution in Bremgarten for disabled children. The application indicates that the request was submitted with the personal recommendation of the Cardinal of Milan, Italy. A separate memorandum included in the Swiss Archive records indicates that Ludwig Thalheimer was not considered fit for labor camp work, and that accommodation in the *Josefanstalt* was therefore recommended. These records also contain a memorandum, dated 8 March 1944, indicating that "private internment" of Ludwig and Josefine Thalheimer at the *Josefanstalt* in Bremgarten had been recommended, and that the Aargau, Switzerland cantonal police authorities agreed to this arrangement for the internment. A third letter, dated 6 April 1944, and written by the Commander (*Kommandant*) of the Bremgarten refugee camp, indicates that on that day, he released Ludwig and Josefine Thalheimer from the camp into "private accommodation" at the *Josefanstalt*.

The records also contain several memoranda and letters, dated in August 1945, indicating that Ludwig, Josefine, and Walter Thalheimer had subsequently moved to their own apartment at Antonigasse 53 in Bremgarten, where they resided until 31 August 1945; on that date, the family left Switzerland and emigrated to Bozen, Italy.

In addition to the Swiss Archive Records detailed above, the Claimant submitted copies of: (1) certificates issued by the municipality of Bozen, indicating that [REDACTED 1] (the Claimant) was born on 26 May 1961 in Bozen, that his father was Walter Thalheimer and that Lodovico

Thalheimer, who was born on 19 January 1887, died on 10 June 1956 in Bozen; (2) his grandmother's death certificate, indicating that Josefine Thalheimer, née Knoll, died on 1 February 1980 in Bozen; and (3) his father's death certificate, indicating that Walter Thalheimer died on 22 March 1996 in Bozen.

The Claimant indicated that he was born on 26 May 1961 in Bozen. The Claimant is representing his mother, [REDACTED 2], née [REDACTED], who was born on 31 May 1934 in Bozen; his brother, [REDACTED 3], who was born on 30 January 1963 in Bozen; his brother, [REDACTED 4], who was born on 23 November 1965 in Bozen; and his brother, [REDACTED 5], who was born on 16 December 1974 in Bozen.

Information Available in the Banks' Records

Bank I

Bank I's record consists of a customer card. According to this record, the Account Owner was Dr. Ludwig Thalheimer, who resided in Bolzano-Gries (Bozen), Italy, and who previously resided in Bremgarten, Switzerland. Bank I's record indicates that the Account Owner held one demand deposit account denominated in United States Dollars, which was opened on 10 August 1944. Bank I's record indicates that the account was closed on 31 January 1947. The amount in the account on the date of its closure is unknown.

Bank II

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") did not report an account belonging to Ludwig Thalheimer, Josefine Thalheimer and Walter Thalheimer during their investigation of Bank II. The documents evidencing accounts belonging to Ludwig, Josefine and Walter Thalheimer were obtained by the Claimant from the Swiss Federal Archives 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 Ludwig Thalheimer, Josefine Thalheimer and Walter Thalheimer, numbered 15255.

These records include a receipt issued by Bank II on 5 November 1943, indicating that Bank II, as custodian of the assets of refugees in Switzerland, had received the following assets belonging

to Ludwig, Josefine and Walter Thalheimer, which the family had on their person upon entry into Switzerland: 576.00 US Dollars (“US \$”), 200.00 Dutch Guilders, and 3,000.00 Italian Lire. The records also include a second receipt issued by Bank II on 15 December 1943, indicating that it had received from the refugee camp in Bremgarten, Switzerland, US \$526.00 belonging to the refugees Ludwig, Josefine and Walter Thalheimer.

There is no evidence in the Swiss Archive records that the Account Owners or their heirs closed the account held at Bank II 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 grandfather’s name and country of residence match the published name and country of residence of Account Owner Ludwig Thalheimer. The Claimant identified Account Owner Ludwig Thalheimer’s professional title and cities of residence, which match unpublished information about Account Owner Ludwig Thalheimer contained in Bank I’s record. In addition, the Claimant identified the names of Account Owner Josefine Thalheimer and Account Owner Walter Thalheimer, which matches information about the Account Owners contained in Bank II’s records.

In support of his claim, the Claimant submitted documents, including records from the Swiss Federal Archive and certificates issued by the municipality of Bozen, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same town recorded in the Banks’ records as the names and city of residence of the Account Owners.

The CRT further notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they resided in Nazi Germany until 1938, that Account Owner Ludwig Thalheimer was interned in Dachau; that he and his family fled to Italy, where Account Owner Ludwig Thalheimer and Account Owner Walter Thalheimer were arrested by Nazi authorities; and that in 1943 the Account Owners fled to Switzerland, where they were interned in a refugee camp. The Claimant also submitted records from the Swiss Federal Archive, indicating that Account Owner Ludwig Thalheimer was interned in Dachau, and that he and his family later fled first to Trento, and then on 10 October 1943 to Switzerland, where they were interned in a refugee camp.

The Claimant’s Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Ludwig Thalheimer was

the Claimant's grandfather, that Account Owner Josefina Thalheimer was the Claimant's grandmother, and that Account Owner Walter Thalheimer was the Claimant's father. These documents include records from the Swiss Federal Archive indicating that Dr. Ludwig Thalheimer's son was Walter Thalheimer, and certificates issued by the municipality of Bozen, indicating that Walter Thalheimer was the father of Ludwig Thalheimer, the Claimant. There is no information to indicate that the Account Owners have other surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

With respect to the demand deposit account held by Account Owner Ludwig Thalheimer at Bank I, Bank I's records indicate that that account was closed on 31 January 1947, by which time Account Owner Ludwig Thalheimer resided in Bozen. Bank I's records also clearly indicate that Account Owner Ludwig Thalheimer had resided in Bremgarten, but that Bank I had been informed that he no longer resided in Bremgarten, and that he now resided in Bolzano-Gries, Bozen, Italy. Therefore, the CRT concludes that Account Owner Ludwig Thalheimer contacted Bank I himself to inform them of his change in residence upon his return to Italy on approximately 31 August 1945; that he was able to access the account; and that he closed the account and received the proceeds himself.

With respect to the refugee account held by the Account Owners at Bank II, given that refugees in Switzerland whose assets were placed in accounts at Bank II by the Swiss authorities generally could not freely exercise control over their accounts;¹ that a number of such account owners could not retrieve the value of these accounts following the Second World War;² that complaints of refugees most often concerned the fact that their deposited assets were not returned;³ that the Swiss Federal Archive records indicate that the Account Owners last contact with Bank II was on 15 December 1943, at which time the Account Owners deposited money into the account and while they were refugees at the refugee camp in Bremgarten; that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of this account; 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 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.

¹ See Independent Commission of Experts, Switzerland- Second World War, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus* (Switzerland and Refugees in the Nazi Era) ("Refugee Report"), at pp. 295, 315.

² *Id.*, at pp. 309, 312.

³ Jung, Joseph (ed.): *Zwischen Bundeshaus und Paradeplatz- Die Banken der Credit Suisse Group im Zweiten Weltkrieg* (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War), Zurich: NZZ Verlag, 2001, at 704.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and the parties he represents. 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 Ludwig Thalheimer and Account Owner Josefine Thalheimer were his and Represented Parties [REDACTED 3], [REDACTED 4] and [REDACTED 5]'s paternal grandparents and that Account Owner Walter Thalheimer was their father, and that Account Owner Walter Thalheimer was Represented Party [REDACTED 2]'s husband and that these 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 accounts.

Amount of the Award

For the purpose of this Award, the CRT determines that the Account Owners held one account of unknown type at Bank II. The Swiss Archive records indicate that in 1943 the account held \$1,102.00 USD, 200.00 Dutch Guilders and 3,000.00 Italian Lira. In 1943 these currencies were worth a total of 5,865.14 Swiss Francs ("SF").⁴ The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 73,314.25.

Division of the Award

According to Article 25 (1) of the Rules, if the Account is a Joint Account the Claimants related to each of the Account Owners have submitted claims to the account, it shall be presumed that each Account Owner was the owner of an equal share of the account.

According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. Therefore, with respect to the one third share of the account owned by Account Owner Walter Thalheimer, Represented Party [REDACTED 2], as the wife of Account Owner Walter Thalheimer, is entitled to one half of Account Owner Walter Thalheimer's share of the account and the Claimant and Represented Parties [REDACTED 3], [REDACTED 4] and [REDACTED 5], as the sons of Account Owner Walter Thalheimer, are each entitled to 1/8 of Account Owner Walter Thalheimer's share of the Account.

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 equal shares by representation. Therefore, with respect to the two-thirds share of the account owned by Account Owner Ludwig Thalheimer and Account Owner Josefine Thalheimer, the Claimant and Represented Parties [REDACTED 3], [REDACTED 4] and [REDACTED 5], as the grandsons are each entitled to one fourth of Account Owner Ludwig

⁴ The CRT uses official exchange rates when making currency conversions.

Thalheimer and Account Owner Josefine Thalheimer's shares of the account. Since they are the grandchildren of Account Owner Ludwig Thalheimer and Account Owner Josefine Thalheimer, the Claimant and Represented Parties [REDACTED 3], [REDACTED 4] and [REDACTED 5] have a better entitlement to these shares of the account than Represented Party [REDACTED 2], the daughter-in-law of Account Owner Ludwig Thalheimer and Account Owner Josefine Thalheimer.

Therefore, the Claimant and Represented Parties [REDACTED 3], [REDACTED 4] and [REDACTED 5] are each entitled to five-twenty-fourths of the total award amount; and represented party Josefine Thalheimer is entitled to one-sixth of the total award amount.

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