

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 Lina Toeplitz

Claim Number: 501791/JG

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Lina Toeplitz (the “Account Owner”), over which Martin Toeplitz held power of attorney (the “Power of Attorney Holder”), at an unknown 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 the Account Owner as his relative, Lina Toeplitz, née Frankenstein, who was born on 15 January 1864 in Germany, and the Power of Attorney Holder as Martin Toeplitz, Lina Toeplitz’ son, who was born on 24 May 1886 in Bromberg, Posen, Germany (now Bydgoszcz, Poland). The Claimant indicated that Lina Toeplitz, who was Jewish, was married to [REDACTED], who was the brother of the Claimant’s great-grandfather. According to the Claimant, [REDACTED] was a judge first in Bromberg, and then in Berlin-Charlottenburg, where the family lived.

The Claimant stated that when [REDACTED] passed away, his son, Martin Toeplitz, who was also a judge, moved into his mother’s home; the two did not flee Nazi persecution in Germany and were deported together. The Claimant further indicated that Lina Toeplitz perished on 20

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”), Lina Toeplitz is indicated as having one account, over which Martin Toeplitz held power of attorney. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts held by Lina Toeplitz, over which Martin Toeplitz held power of attorney.

July 1943 in Theresienstadt concentration camp, and that Martin Toeplitz perished in Estonia during the Holocaust.

The Claimant submitted copies of: (1) an extract from the family book of his father, [REDACTED], which indicates that [REDACTED]' grandfather's brother, [REDACTED], lived in Charlottenburg, Germany and had a son named Martin. This document further indicates that after [REDACTED]'s death, his widow and his son were deported to Theresienstadt and then to Auschwitz, where they perished; (2) his father's obituary from an Israeli newspaper, which indicates that [REDACTED]' funeral took place on 12 October 2006, and that his three children were [REDACTED], [REDACTED] and [REDACTED].

The Claimant indicated that he was born on 31 January 1949 in Tel Aviv, Israel.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, dated 6 February 1928, and printouts from the Bank's database. According to these records, the Account Owner was *Frau* ("Mrs.") Lina Toeplitz, who resided at Schloss Strasse 64 in Berlin-Charlottenburg 5, Germany, and the Power of Attorney Holder was Martin Toeplitz, the Account Owner's son, who resided at the same address. The Bank's records indicate that the Account Owner held one custody account and one demand deposit account.²

The Bank's records do not show when these accounts were closed, nor do these records indicate the value of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's relatives' names and city and country of residence match the published names and city and country of residence of the Account Owner and the Power of Attorney Holder. The

² The Bank's records contain a power of attorney form that references a "*Titeldepot*", which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that she held such an account.

Claimant identified the Power of Attorney Holder as the Account Owner's son, which matches unpublished information contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including an extract from his father's family book, providing independent verification that the person who is claimed to be the Power of Attorney Holder had the same name recorded in the Bank's records as the name of the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Lina Toeplitz, née Frankenstein, and indicates that her date of birth was 15 January 1864 and that she resided in Berlin, Germany, which matches the information about the Account Owner provided by the Claimant.³ The CRT also notes that this database includes a page of testimony submitted by the Claimant's father in 1956, which indicates that Lina Toeplitz, née Frankenstein, was born on 15 January in the 1860s, that she was a widow, and that her husband's name was [REDACTED], which matches information about the Account Owner provided by the Claimant. The Claimant's father also submitted in 1956 a page of testimony with respect to Martin Toeplitz, which indicates that Martin Toeplitz was born on 24 May 1886 in Bromberg, Poland, that he was a judge, and that his parents' names were [REDACTED] and Lina, which matches the information about the Account Owner and Power of Attorney Holder provided by the Claimant.

Finally, the database also contains pages of testimony submitted by another individual indicating that Martin Toeplitz, son of Lina and [REDACTED]; and Lina Toeplitz, née Frankenstein, widow, and mother of Martin Toeplitz, both resided at Schloss Strasse 64 in Berlin-Charlottenburg. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Lina Toeplitz appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List"). 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 she perished in either Theresienstadt or Auschwitz concentration camp on 20 July 1943. As noted above, a person named Lina Toeplitz 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 and Power of Attorney Holder by submitting specific biographical information and documents, demonstrating that the Account Owner and Power of Attorney Holder were the Claimant's relatives. These

³ The CRT notes that Charlottenburg was an independent city to the west of Berlin until 1920, when it was incorporated into Greater Berlin and transformed into a borough.

documents include an extract from the Claimant's father's family book, identifying Martin Toeplitz as a relative of [REDACTED], and a copy of the Claimant's father's obituary, identifying [REDACTED] as the Claimant's father. The CRT notes that the Claimant indicated that he has 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 Owner's account in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owner and Power of Attorney Holder as contained in the Bank's records; that the Claimant's father submitted testimony about the Account Owner to Yad Vashem in 1956, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches independent information contained in the CRT's database of names of victims of Nazi persecution. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder perished in 1943; that there is no record of the payment of the Account Owner's accounts to her nor any record of a date of closure of the accounts; that the Account Owner's heirs would not have been able to obtain information about her accounts 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, the Power of Attorney Holder, 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 the Account Owner was married to the Claimant's great-grandfather's brother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit 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 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 custody account was 13,000.00 Swiss Francs (“SF”), and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00. 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 a total award amount of SF 189,250.00.

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
25 November 2008