

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of I. Louis Breslauer

Claim Numbers: 219845/HB; 781988/HB; 781992/HB¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together “the Claimants”) to the unpublished account of I. Louis Breslauer (the “Account Owner”) at the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at the Bank.

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted a Claim Form and Claimant [REDACTED 2] submitted two Initial Questionnaires (“IQs”), providing substantially similar information, identifying the Account Owner as their father, Louis (Lewis, Ludwig) I. (Israel) Breslauer (Breslow). Claimant [REDACTED 1] indicated that the Claimants’ father was born on 22 December 1882 in Jarotschin, Posen, Germany (today Jarocin, Poland), and was married to [REDACTED], née [REDACTED], on 20 October 1925 in Cologne, Germany. According to the Claimants, their father, who was Jewish, resided at Herderstrasse 63 in Duesseldorf, Germany. Claimant [REDACTED 1] added that he had been a horse dealer and later an insurance agent. The Claimants stated that their father was beaten by the Nazis in November 1938 during the “Night

¹ [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted two Initial Questionnaire (“IQs”), numbered ENG-0468-016 and ENG-0468-024, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires 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 IQs were forwarded to the CRT and have been assigned claim numbers 781988 and 781992, respectively.

of Broken Glass” pogrom (*Kristallnacht*). The Claimants further stated that they and their mother, who was Swiss born, were able to flee under the Swiss quota from Germany to the United States in late 1939, but that their father was unable to join them. Claimant [REDACTED 2] added that the Claimants’ father sought but was denied entry into Switzerland. The Claimants stated that their father’s house was forcibly sold, and the proceeds with other assets confiscated in 1940 or 1941, and that he was forced to perform slave labor in a construction batallion in a satellite concentration camp on the outskirts of Duesseldorf. The Claimants further stated that their father eventually fled Germany to the United States, via the Netherlands, in the spring of 1941 or 1942. The Claimants indicated that their father died on 9 August 1949 in Elmer, New Jersey, the United States.

In support of their claims, the Claimants submitted documents, including: (1) their mother’s German passport, indicating that [REDACTED], née [REDACTED], was Jewish, was born in Switzerland, and had two children, [REDACTED 2] and [REDACTED 1]; (2) [REDACTED] and Louis Breslauer’s family book, dated 27 October 1925 and issued by the city of Duesseldorf, indicating that Louis Breslauer was Jewish, that he was born on 22 December 1882 in Jarotschin and that he resided in Lingen, Germany, that [REDACTED] was born in Solothurn, Switzerland, and that they had two children, [REDACTED 2] and [REDACTED 1]; the German identity papers of their mother and themselves, with a 16 November 1939 date stamp and the entry visa to the United States, issued in Stuttgart and dated 11 September 1939; (3) a group photograph of the forced labor unit, including their father, and dated 1940-41; and (4) an envelope that was addressed to Louis Breslauer during the Second World War, indicating that Louis Breslauer resided at Herderstrasse 63 in Duesseldorf. In addition, Claimant [REDACTED 1] submitted the following documents: (1) the Claimants’ father’s death certificate, dated 10 May 1956, issued by the state of New Jersey, indicating that Lewis Breslauer was born on 22 December 1882 and died on 9 August 1949 in New Jersey; (2) their mother’s death certificate, dated 30 August 1980, indicating that [REDACTED] was born in Switzerland; and (3) a court order regarding their mother’s estate, dated 14 April 1985, indicating that [REDACTED 1] was the executor of [REDACTED]’s estate.

Claimant [REDACTED 1] indicated that she was born on 20 January 1928 in Duesseldorf, and Claimant [REDACTED 2] indicated that he was born on 21 July 1926 in Lingen (Ems), Germany. Claimant [REDACTED 1] previously submitted two IQs to the Court in 1999, and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to Swiss bank accounts owned by Louis Breslauer or Rosa Breslauer.²

Information Available in the Bank’s Record

The Bank’s record consists of a printout from the Bank’s database of accounts blocked under the United States’ Trading with the Enemy Act (the “1941 Freeze”).³ According to this record, the

² The CRT will treat the claim to the account of Rosa Breslauer in a separate determination.

³ During the Second World War, the United States government froze certain foreign assets located in the United States, under the powers of the Trading with the Enemy Act of 1917 (50 U.S.C. App.). On 14 June 1941, President Roosevelt extended freezing controls to cover all of continental Europe (the “1941 Freeze”). Executive Order 8785 Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of All

Account Owner was I. Louis Breslauer, who resided in Duesseldorf, Germany. The Bank's record indicates that the Account Owner held a demand deposit account, which had a balance of 227.53 United States Dollars ("US \$") as of 14 June 1941. 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 record that the Account Owner or his heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,⁴ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs ("SF") or less or of unknown value and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' father's name and city and country of residence match the unpublished name and city and country of residence of the Account Owner contained in the Bank's record. In support of their claims, the Claimants submitted documents, including [REDACTED] and Louis Breslauer's family book and an envelope that was addressed to Louis Breslauer during the Second World War, identifying their

Foreign-Owned Property, and Related Matters (6 Fed. Reg. 2897). See Plunder & Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report, SR-44 (United States Government Printing Office, 2000), available at http://www.pcha.gov/PlunderRestitution.html/html/Home_Contents.html.

⁴ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

father as Louis Breslauer and indicating that he resided in Duesseldorf, Germany, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Louis Breslauer, and indicates that his cities of residence were Duesseldorf and Elmer, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he was beaten during *Kristallnacht*, that his house was forcibly sold and the proceeds together with other assets confiscated by the Nazi regime, that he was forced to perform slave labor, and that he fled from Germany to the United States in 1941 or 1942. As noted above, a person named Louis Breslauer was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' father. These documents include [REDACTED] and Louis Breslauer's family book, indicating that their children were [REDACTED 2] and [REDACTED 1]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Account Owner's account was frozen in the 1941 Freeze. The CRT notes that the Account Owner emigrated to the United States in 1941 or 1942. The CRT further notes that the Account Owner's family arrived in the United States in 1939, but there is no indication that either the Account Owner or the Account Owner's family accessed or attempted to access the account. Furthermore, the Bank's record does not indicate when the account was closed, there is no record of the account being released to the Account Owner, and no evidence that the account was closed to any other authorized party.

The CRT notes that although persecutees who had arrived in the United States by 23 February 1942 could, under the provisions of the US Treasury's general licensing system, access their accounts, there is no documentation on the extent to which eligible persons availed themselves of these provisions.⁵ Furthermore, there is no indication in the Bank's records of such a release of funds.

⁵ With regard to assets frozen under the Trading with the Enemy Act, according to the Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report (December 2000) ("PCHA Report"), no exceptions nor distinctions were made for assets belonging to

Absent evidence in the Bank's records and, in this case, in the official records of the State of New York, and given the facts above, and given that this account was frozen under the 1941 Freeze; 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; and given the application of Presumptions (h) and (j), as provided in Article 28 of 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, the Claimants have plausibly demonstrated that the Account Owner was their father, 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 Bank's record indicates that the balance of the accounts as of 14 June 1941 was US \$227.53, which was equivalent to SF 980.65.⁶ 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 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 26,750.00.

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 equal shares by representation. In this case, the Claimants are the children of the Account Owner. Accordingly, the Claimants are each entitled to one-half of the total award amount.

Holocaust victims. PCHA Report, at 11-12. Furthermore, many Holocaust victims did not recover their frozen assets or the full value of their assets. *Id.* The PCHA Report can be found at <http://www.pcha.gov>. However, bona fide refugees and immigrants were enabled to access their accounts first under GL 42 and GL 42A, which covered persons who had entered the United States by 17 June 1941, and, beginning on 23 February 1942, under GL42 as amended, which covered those persons who had arrived in the United States on or before that date. For a full history of GL42 and 42A, see U.S. Treasury Department, *Documents Pertaining to Foreign Funds Control*, August 16, 1941, General License 42, p. 31; (amended February 23, 1942), *Id.*, March 30, 1942, p. 33.

⁶ The CRT uses official exchange rates to convert amounts in foreign currencies into Swiss Francs.

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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
24 September 2008