

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant the Estate of [REDACTED]
represented by Stephen Harnik

in re Accounts of Martin Domke

Claim Number: 501251/SB

Award Amount: 364,657.75 Swiss Francs

This Certified Award is based upon the claim of the Estate of [REDACTED] (the “Claimant”) to the published accounts of Martin Domke (the “Account Owner”), over which Lucie Domke, Gertrud Loebinger and Max Loebinger (the “Power of Attorney Holders”) held power of attorney, at the Geneva 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 [REDACTED]’s father, Martin Domke, who was born on 11 September 1892 in Berlin, Germany, and was first married to Lucy Loebinger and later married to [REDACTED]. The Claimant stated that Martin Domke, who was Jewish, was an attorney who held the title of doctor of laws and who originally resided in Berlin. The Claimant further stated that Martin Domke and his first wife, Lucy Loebinger, fled Nazi persecution, going first to Paris, France and later emigrating to the United States. The Claimant stated that Martin Domke died on 22 November 1980 in New York, the United States. The Claimant submitted: (1) Martin Domke’s last will and testament, signed by Martin Domke and dated 24 September 1980, which states that Martin Domke bequeathed his entire estate to his wife, [REDACTED]; (2) Martin Domke’s death certificate, dated 6 December 2000, which indicates Martin Domke’s date and place of birth and his former profession as an attorney; (3) [REDACTED]’s last will and testament, which states that [REDACTED] bequeathed 30 percent of her estate to her son, [REDACTED], and 25 percent to Martin

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”), Martin Domke is indicated as having two accounts. Upon careful review of the Bank’s records, the CRT concludes that Martin Domke owned four accounts.

Domke's son, [REDACTED]; (4) [REDACTED]'s death certificate, (5) a printout from the Social Security Administration dated 22 December 2003, which indicates [REDACTED]'s date and place of birth and that his parents were Martin Domke and Lucy H. Loebinger; and (6) an obituary for [REDACTED], indicating that his family fled Berlin to Paris; and (7) a Certificate of Appointment from the court of probate for the District of Lamoille, which indicates that [REDACTED] was appointed as the Executor of the Estate of [REDACTED].

The Claimant indicated that [REDACTED] was born on 16 December 1921 in Berlin and died on 12 January 1989 in Lamoille, Vermont, the United States.

Information Available in the Bank's Records

The Bank's records submitted by 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") consist of a customer card, a power of attorney form and printouts from the Bank's database. Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about Martin Domke's assets ("Voluntary Assistance"). On 9 June 2005, the Bank provided the CRT with additional documents. These documents consist of two power of attorney forms and a list of expired powers of attorneys.

According to these records, the Account Owner was Dr. Martin Domke, a lawyer, who was a refugee from Germany and who resided in Paris, France at 8 Avenue Charles Floquet and later at 15 Rue de Presles. The Bank's records indicate that the Power of Attorney Holders were Lucie Domke, née Loebinger, the Account Owner's wife; Max Loebinger, who resided at Seefeldstrasse 15 in Zurich, Switzerland; and Gertrud Loebinger, née Juliusburger, who also resided at Seefeldstrasse 15 in Zurich. The power of attorney for Lucie Domke was signed on 31 March 1938, and the power of attorney for Max Loebinger and Gertrud Loebinger was signed on 4 February 1939. The Bank's records indicate that the power of attorney for Lucie Domke was cancelled on 27 April 1940. The powers of attorney for Max Loebinger and Gertrud Loebinger were also cancelled, but the date of cancellation is not recorded.

The Bank's records indicate that the Account Owner held three demand deposit accounts, one in United States Dollars ("US \$"), one in Pound Sterling ("£"), and one in Swiss Francs ("SF"), and that one of those accounts was a debit account. The Bank's records also indicate that the Account Owner intended to open a custody account with the Bank, but did not deposit any securities. The auditors who carried out the ICEP Investigation reported a related savings account, which was excluded from the ICEP Investigation because it had a balance smaller than SF 250.00 or had an unknown balance, but did not provide any details about this account.²

The Bank's records indicate that the account in Pound Sterling was opened on 1 April 1938 with an initial deposit of £1,126.00. The Bank's records contain an entry, dated 11 May 1938, that SF 2,000.00 was blocked in favor of the Swiss Department of Justice and Police. The Bank's

² In an effort to return all assets to their rightful owners, the CRT includes accounts in awards, as appropriate, even if they were not reported by the ICEP auditors.

records indicate that the demand deposit account in US Dollars was closed on 23 June 1939. The Bank's records further indicate that the demand deposit account in Pound Sterling was closed, but the date of closure is not recorded.

The Bank's records do not show when the demand deposit account in Swiss Francs was closed. 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 Owner, the Power of Attorney Holders, 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. [REDACTED]'s father's name, city and country of residence match the published name, city and country of residence of the Account Owner. [REDACTED]'s mother's name matches the published name of one of the Power of Attorney Holders. The Claimant identified the Account Owner's former occupation and title, and the fact that the Account Owner had fled Germany to France, which matches unpublished information about the Account Owner contained in the Bank's records. In support of the claim, the Claimant submitted documents, including Martin Domke's last will and testament and death certificate, and [REDACTED]'s obituary, indicating that [REDACTED] and his family fled Berlin to Paris, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The Claimant also submitted a sample of Martin Domke's signature, which matches the signature contained in the Bank's records.

The CRT notes that the name Martin Domke appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). The CRT notes that there are no other claims to these accounts.

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 fled Germany for France before emigrating to the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that [REDACTED] is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was

[REDACTED]'s father. These documents include Martin Domke's and [REDACTED]'s wills and a printout of [REDACTED]'s social security record.

The Issue of Who Received the Proceeds

With respect to the demand deposit account in US Dollars, the CRT notes that the Bank's records indicate that the account was closed on 23 June 1939, at which time, according to information provided by the Claimant and information contained in the Bank's records, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the state purpose of obtaining indemnification from the German authorities, 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.

With respect to the remaining accounts, for which no date of closure is indicated in the Bank's records, given that the Account Owner originally fled Germany and then France to escape Nazi persecution; that there is no record of the payment of the Account Owner's accounts to him, nor any record of a date of closure of three of the four accounts held by the Account Owner; that the Account Owner and his heirs would not have been able to obtain information about his 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 (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 Holders, or their heirs.

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 [REDACTED]'s father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held three demand deposit accounts and one savings/passbook account. With respect to the demand deposit account in Pound Sterling, the Bank's records indicate that the value of the account upon its opening on 1 April 1938 was £1,126.00, which was equivalent to SF 24,062.62. The current value of this account is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of SF 300,782.75.

With respect to the remaining two demand deposit accounts and one savings/passbook 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 demand deposit account was SF 2,140.00 and the average value of a savings/passbook account was SF 830.00. Thus, the total 1945 average value of the accounts at issue is SF 5,110.00. 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 an amount of SF 63,875.00.

Consequently, the total award amount is SF 364,657.75.

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 its claim 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).

Certification of the Award

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

Claims Resolution Tribunal
31 August 2005

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