

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Etienne Bloch
represented by Sylvie Bloch

in re Account of Gaston and Nelly Bloch

Claim Number: 212693/FC

Award Amount: 24,610.00 Swiss Francs

This Certified Award is based upon the claim of Etienne Bloch (the “Claimant”) to the Account of Gaston and Nelly Bloch (the “Account Owners”) at the Basel branch at [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form in which he indicated that the Account Owners were his mother, Nelly Bloch née Weill, who was a lawyer and was born on 30 October 1894 in Belfort, France, and his father, Gaston Bloch, born on 5 November 1885. His parents lived at avenue Daumesnil, Paris, from 1921 to 1935, and then at quai de la Rapée 100, Paris, until 1942. The Claimant provided official documents demonstrating that his parents were Nelly and Gaston Bloch.

According to the information provided by the Claimant, his mother, who was Jewish, was arrested in Grenoble, France, on 23 February 1944. She was deported to Auschwitz on 7 March 1944 and killed there on 10 March 1944. His father survived the Holocaust and died in Paris in 1974. During a telephone conversation with a Staff Attorney of the Tribunal, the Claimant confirmed that his father also was Jewish.

The Claimant also stated that his parents’ other two children, Liliane and Francine, are both deceased. Liliane died on 23 January 1923 at the age of one, and Francine died in Auschwitz on 10 March 1944 at the age of twenty. According to the Claimant’s submissions, Francine was not married nor had children.

Information Available in the Bank Records

According to the bank records, which consist of account opening cards, letters and memoranda, the Account Owners were Gaston Bloch and his wife, Nelly Bloch née Weill, who lived at 3, rue Lefèvre, Paris, 9th District. Information obtained by the audit firm that investigated the account indicated that the Account Owners had two further addresses: 9bis, rue P. Demours, Paris and 100, quai de la Rapée, Paris, 9th District.

The Account Owners held a demand deposit account that was “balanced” (*balancé*) or zeroed out on 18 March 1952.¹ These documents do not record the value of this account. The auditors could find no evidence of activity on the account since 1945. The auditors also reported that the account had been included on a 1952 list of missing account holders pursuant to an internal bank survey. This list indicated that there was no client contact from 1940 to 1952.

An internal memo in the bank file dated 31 March 1952 indicated that the bank “balanced” accounts for which there had been no client contact for more than ten years and whose value was less than one hundred Swiss Francs by charging “research fees.” The Bank explained that the accounts were zeroed out because the accounts were believed to have been closed by their owners. However, according to the Bank itself, this was not always the case as some account owners who had allegedly closed their accounts later contacted the Bank.

The Tribunal’s Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant’s parents’ names match the published names of the Account Owners. The information provided by the Claimant matches the unpublished information about the Account Owners contained in the bank records and in the auditor’s report. The Claimant has provided his parents’ precise address in Paris before Second World War, which exactly matches one of the unpublished addresses contained in the records. The Claimant’s mother’s maiden name also matches Account Owner Nelly Bloch’s maiden name, Weill. Moreover, the unpublished information about the Account Owner’s marital status contained in the bank documents is consistent with documents submitted by the Claimant that show his parents’ marital status.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owners were Victims of Nazi Persecution. The Claimant stated that his father, who died in 1974, lived in Nazi-occupied France and was Jewish. With respect to his mother, the Claimant stated that she was Jewish, was arrested in Grenoble, France, on 23 February 1944 and was deported to Auschwitz where she perished on 10 March 1944. Moreover, the Tribunal notes that a database containing the names of Victims of Nazi Persecution includes a person named Nelly Bloch and indicates that she was a

¹ The bank records also indicate that the Account Owners held a second demand deposit account and a custody account. These accounts will be addressed in a separate decision.

lawyer and that her date and place of birth were 30 October 1894 in Belfort, France, which exactly matches the information about the Account Owner Nelly Bloch provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly shown that the Account Owners were his parents by providing documentation including his birth certificate, his mother's death certificate and his parents' family booklet. The Claimant stated that his parents had no other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning his relationship to the Account Owners.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owners or their heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owner, or their family, there is a substantial likelihood that these funds went to the Bank.

In this case, the Bank closed the account by charging fees equal to the account balance on 18 March 1952. The auditors reported that there was no evidence of activity on the account from 1945 until its closure in 1952, and, according to an internal bank survey carried out in 1952, the bank had no contact with these clients from 1940 to 1952. Therefore, it is clear that the Account Owners or their heirs have not received the proceeds of the account.

Basis for the Award

The Tribunal 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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his parents, and that relationship justifies an Award. Finally, the Tribunal has determined that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. The present value is obtained by multiplying the foregoing amount by a factor of 11.5 in accordance with Article 37(1) of the Rules, giving a total present value of 24,610.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, there is the possibility of other competing claims and the value of the account at issue is based on the Article 35 presumptions. In this instance, 35% of the total award amount is 8,613.50 Swiss Francs.

Scope of the Award

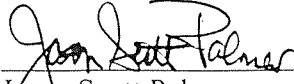
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Articles 37(3)(a) and (b) of the Rules provide that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 of the Rules or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value and is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

8 May 2002
Date


Jason Scott Palmer
Resident Claims Judge