

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by *Cohen, Milstein, Hausfeld & Toll PLLC*

in re Account of Leo Berril Cohen

Claim Number: 205057/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to his own account.¹ This Award is to the published account of Léo Berril Cohen (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).²

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 sister’s husband, Leo Cohen (Cohn), who was born in approximately 1876 to 1879, and was married to [REDACTED], née [REDACTED]. In a telephone conversation with the CRT on 15 November 2002, the Claimant informed the CRT that Leo Cohen was a pharmacist and the owner of two pharmacies in Berlin, Germany, where he also resided. The Claimant stated that his brother-in-law had two daughters, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED], who were born in Berlin and emigrated to the United States after the Second World War. Furthermore, the Claimant indicated that Leo and [REDACTED], who were Jewish, were both deported to Auschwitz, where they perished on 19 December 1940.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Bernard Lump.³ The Claimant indicated that he was born on 3 February 1916 in Fulda, Germany.

¹ The CRT did not locate an account belonging to [REDACTED] in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

² The CRT notes that 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 name Leon Cohen also appears. Upon careful review, the CRT has determined that the Claimant did not identify this other account owner as his relative.

Information Available in the Bank's Records

The Bank's records consist of extracts from a suspense account ledger. According to these records, the Account Owner was Léo Berril Cohen. The Bank's records do not indicate the Account Owner's place of residence.

The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, which was transferred to a suspense account for dormant assets on 12 December 1950. The amount in the account on the date of its transfer was 44.00 Swiss Francs ("SF").

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 records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's brother-in-law's name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes several persons named Leo Cohn (or Kohn) who were born between 1874 and 1880 and who resided in Berlin. The CRT further notes that the database also contains a person named [REDACTED], née [REDACTED], and indicates that she was born on 11 June 1903 and that she resided in Berlin, which matches the information provided by the Claimant about the spouse of the person who is claimed to be the Account Owner. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Leo Cohen 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 this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 he perished in

³ The CRT did not locate an account belonging to Bernard Lump in the Account History Database prepared pursuant to the ICEP Investigation.

Auschwitz on 19 December 1940. As noted above, persons named Leo Cohn and [REDACTED], née [REDACTED], were 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 by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's brother-in-law. The CRT notes that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further 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 CRT notes that the Account Owner may have closer living heirs but as they are not represented on the Claimant's claim and have not filed claims on their own behalf, their potential entitlement to the account will not be treated in this Award.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was suspended by the Bank on 12 December 1950 and closed on an unknown date thereafter. Given that the account would have been dormant for at least five years before being transferred to the Bank's suspense account; that the Account Owner and his wife perished in a concentration camp during the Holocaust; 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; that the Account Owner's heirs would not have been able to obtain information about his account 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 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 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 his brother-in-law, and that relationship justifies 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 an account of unknown type. The Bank's records indicate that the value of the account as of 12 December 1950 was SF 44.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 90.00, which reflects

standardized bank fees charged to the account between 1945 and 1950. Consequently, the adjusted balance of the account at issue is SF 134.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

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
27 February 2007