

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ernest Feibelman

in re Accounts of Leon Feibelmänn

Claim Number: 300034/AY

Award Amount: 234,987.13 Swiss Francs

This Certified Award is based upon the claim of Ernest Feibelman (the "Claimant") to the accounts of Leon Feibelmänn (the "Account Owner") at the Zurich branches of the [REDACTED] ("Bank I") and the [REDACTED] ("Bank II").

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his father, Leon Feibelmänn, who was born on 5 February 1897 in Rülzheim, Germany to Zacharius and Frieda Feibelmänn, and was married to Kate Feibelmänn, née Strauss, in December 1933 in Mannheim, Germany. The Claimant indicated that Leon and Kate Feibelmänn had one child, the Claimant. The Claimant stated that his father, who was Jewish, worked as a salesman in Mannheim, and that he fled to Belgium in 1939 to escape Nazi persecution. The Claimant further stated that in 1940, his father was interned in a concentration camp in Belgium and from there was transported to several camps in France, including Gurs, Des Milles, and Drancy, and was eventually sent to Auschwitz, where he perished on 21 December 1942. The Claimant indicated that his mother lived in Marseille, France during the Second World War and later emigrated to the United States, where she currently resides in Baltimore, Maryland. In a telephone conversation with the CRT on 20 January 2004, the Claimant's mother stated that the money she and her husband had in Switzerland was sent to a German bank in Mannheim in order to protect themselves from being sent to concentration camps. The Claimant's mother further stated that "Hitler got the money," that her husband was sent to Auschwitz, where he perished, and that she escaped from country to country with her son in her arms until 1942, when she was permitted to stay in various refugee camps in Switzerland. The Claimant's mother explained that her son was taken from her and sent to live with a Swiss family until the end of the Second World War in 1945.

In support of his claim, the Claimant submitted his birth certificate, identifying his parents as Leon Feibermann and Kate Feibermann, née Strauss, of Mannheim; his father's birth certificate, identifying him as Leon Feibermann; his parents' marriage certificate, identifying them as Leon Feibermann and Kate Feibermann, née Strauss; a decision issued by the court in Mannheim on 25 March 1948 declaring Leon Feibermann dead; and a letter from the European Search Center in Paris, France, confirming that Leon Feibermann was interned at the Gurs concentration camp and deported to Auschwitz. The Claimant's birth certificate shows that he was born on 30 December 1934 in Mannheim.

Information Available in the Bank's Records

Bank I

Bank I's records consist of a customer card, power of attorney forms, signature sample cards, and a letter from the Bank to the Account Owner. According to these records, the Account Owner was Leon Feibermann, who resided in Brussels, Belgium at 82 rue Vanderschrick as of 28 February 1940, and the Power of Attorney Holders were Kate Feibermann, the Account Owner's wife, and Leon Weil, who resided in Zurich, Switzerland, at Gartenstrasse 26.

Bank I's records indicate that the Account Owner held a demand deposit account in United States Dollars. Bank I's records further indicate that Bank I wrote to the Account Owner on 12 January 1940, informing him that Bank I had received a payment in the amount of 289 Pounds Sterling, 13 Shillings and 5 Pence from the Jewish Refugee Committee in London, the United Kingdom. Furthermore, Bank I informed the Account Owner that this amount, being equivalent to 1,276.75 United States Dollars, was paid to the Account Owner's account by Dr. Alfred Bloch from New York, to be used by the Account Owner after his arrival in London. Bank I instructed the Account Owner that he could only use the funds upon agreement with Dr. Bloch.

Bank I's records do not show when the demand deposit account was closed, or to whom it was paid, nor do these records indicate the value of this account. 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, the Power of Attorney Holders or their heirs closed the account and received the proceeds themselves.

Bank II

Bank II's records consist of a customer card, a letter from the Account Owner's wife, dated 26 February 1950, and a printout from Bank II's database. According to these

records, the Account Owner was Leon Feibelman, who used addresses in Rülzheim (Pfalz), Cologne, and Mannheim, Germany. These records indicate that correspondence was to be sent to a company named *A. Bernheim*, located in Rülzheim and Cologne. Bank II's records further indicate that the Account Owner held a custody account, numbered 32391, and a savings account, both of which were both closed on 15 June 1934. The amounts in the accounts on the date of their closure is unknown. There is no evidence in Bank II's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Bank II's records show that the Account Owner's wife, Kate Feibelman, wrote to Bank II on 26 February 1950, informing Bank II that her husband held a custody account at a bank in Switzerland, which he had to repatriate to Germany upon an order of the German foreign exchange authority in 1936. The Account Owner's wife informed Bank II that she wanted to claim compensation and requested Bank II to confirm that her husband held an account in that bank. The reply of Bank II is not available.

The CRT's Analysis

Identification of the Account Owner

The Claimant has identified the Account Owner. His father's name matches the published name of the Account Owner. The Claimant stated that his father came from Rülzheim, Germany and lived in Mannheim, Germany, which matches unpublished information contained in Bank II's records. The Claimant further stated that after fleeing Germany, his father lived in Belgium, which matches unpublished information about the Account Owner contained in Bank I's records. The Claimant also identified the unpublished name of one of the Power of Attorney Holders contained in Bank I's records and indicated that Kate Feibelman, née Strauss, was the Account Owner's wife, which also matches unpublished information contained in the Bank I's records. The Claimant submitted his birth certificate, identifying his parents as Leon Feibelman and Kate Feibelman, née Strauss, of Mannheim; his father's birth certificate, identifying him as Leon Feibelman; and a letter from the European Search Center in Paris confirming that the Claimant's father was interned in the Gurs and Auschwitz concentration camps, where he perished. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Leon Feibelman, and indicates that his date of birth was 5 February 1878 and place of birth was Rülzheim, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Furthermore, the CRT notes that the other claim to these accounts was disconfirmed because that claimant indicated a different spouse's name than the name of the Account Owner's spouse. Taking all of these factors into consideration, 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, that he fled Nazi Germany for Belgium, and that he was deported to Auschwitz, where he perished.

As noted above, a person named Leon Feibelmann 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 by submitting documents, including his and his father's birth certificates, demonstrating that the Account Owner was his father.

The Issue of Who Received the Proceeds

Regarding the demand deposit account held at Bank I, given that the Account Owner was Jewish and was a German national with an address in Germany; that the Nazis embarked on a campaign to confiscate the domestic and foreign assets of its Jewish nationals, and the Nazi enforcement of flight taxes; that the Account Owner resided in Germany until 1939 and would not have been able to repatriate his assets to Germany without their confiscation; that the letter to the Account Owner from Bank I, dated 12 January 1940, indicated that Bank I had received a payment by Dr. Alfred Bloch on the Account Owner's behalf, which could only be used after the Account Owner's arrival in London; that the Account Owner never got to London, as he was deported to concentration camps in 1940, where he perished in 1942; that there is no record of the payment of the Account Owner's account to him, to the Power of Attorney Holders, or to the Account Owner's heirs; that the Account Owner, the Power of Attorney Holders, and 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 inquires 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.

Regarding the custody account and the savings account held at Bank II, given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the accounts were closed in 1934 and that the Account Owner remained in Germany until 1939, and would not have been able to repatriate his account to Germany without its confiscation; that the Account Owner's wife, and Power of Attorney Holder, stated to the CRT that she and her husband transferred their assets in Switzerland to a German bank in Mannheim in order to avoid arrest and deportation; and the application of Presumptions

(a), (e), (h) and (j), as provided in Article 28 of the Rules and Appendix C¹, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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 demonstrated that the Account Owner was his father, and that relationship justifies an Award. Finally, the CRT has determined that neither the Account Owner, the Power of Attorney Holders, nor his heirs received the proceeds of the accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account at Bank I as well as one custody account and one savings account at Bank II.

Regarding the demand deposit account held at Bank I, the Bank's records indicate that the value of the account as of 12 January 1940 was 1,126.75 United States Dollars, which was the equivalent of 4,968.97 Swiss Francs.² The current value of the amount of the award 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 62,112.13 Swiss Francs.

Regarding the custody account and savings account held at Bank II, 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, and the average value of a savings account was 830.00 Swiss Francs, for a total of 13,830.00 Swiss Francs. 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 172,875.00 Swiss Francs.

Consequently, the total award amount is 234,987.13 Swiss Francs.

¹ Appendix C appears on the CRT II website -- www.crt.ii.org.

² In calculating this amount, the CRT uses official exchange rates as provided by the Swiss National Bank.

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
6 February 2004