

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Gerda Lederer

in re Account of Berta Heim

Claim Number: 400638/BW

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Gerda Lederer, née Heim, (the “Claimant”) to the published account of Berta Heim (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 her mother, Berta (Bertha) Heim, née Oser, who was born on 17 July 1900 in Neusiedl a. d. Zaya, Austria, and was married to Leopold Heim on 16 October 1921 in Vienna, Austria. The Claimant indicated that her mother, who was Jewish, resided at Mariahilferstrasse 55 in Vienna, and was a saleswoman and store manager of a glove store that she co-owned with her husband and that was located at Mariahilferstrasse 57 in Vienna. The Claimant stated that her parents had two children, Liselotte Matzka, née Heim, (the Claimant’s sister) and the Claimant, who were both born in Vienna. According to the Claimant, after the incorporation of Austria into the Reich in March 1938 (the “Anschluss”), her parents’ apartment, stores, and summer house were taken, at which time her family fled Austria for Paris, France, where they resided from 8 October 1938 to 19 June 1939, when they emigrated to the United States. According to the Claimant, her parents both had siblings who remained in Europe and perished in the Holocaust. The Claimant further indicated that her family took up residence in Scarsdale, New York; that her father died on 21 November 1980 in Hicksville, New York; that her sister died in November 1988 in Hicksville; and that her mother died on 27 November 1999 in Mamaroneck, New York.

The Claimant submitted documents in support of her claim, including: (1) a document issued on 16 December 1938 from the French government which indicates that Berta Heim, née Oser, an ex-Austrian citizen, born on 9 July 1900 in Neusidel z./Zayer [sic], was refused a residency permit and was allowed to stay in France until 7 July 1939; (2) a certificate of domicile (“*Certificat de Domicile*”) issued by the director of the *Hotel Royal-Versailles* in Paris, which indicates that Berta Heim was domiciled at the hotel from 8 October 1938 until 19 June 1939; (3)

her mother's American certificate of naturalization, indicating that Bertha Heim was formerly an Austrian citizen; (4) her mother's death certificate, indicating that Bertha Heim was born on 17 July 1900 in Austria, that she was a widow, and indicating that Gerda Lederer informed the Department of Health of her death; (5) her father's German passport, which was issued in Vienna on 24 September 1938 to Leopold Heim, a Jewish businessman in Vienna, and which indicates that Leopold Heim received a visa for the United States on 6 July 1939, and subsequently departed Le Havre, France for the United States on 15 July 1939; and (6) her own birth certificate, issued by the Jewish Community of Vienna, which indicates that Gerda Heim was born on 9 April 1926 to Leopold and Bertha Heim, née Oser, in Vienna.

The Claimant indicated that she was born on 9 April 1926 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Berta Heim, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account, which was opened on 16 August 1925.

The Bank's record indicates that the account was closed, but the date of closure is illegible. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Berta Heim, numbered 7056.

These records indicate that Berta Heim, née Oser, the wife of businessman Leopold Heim, was born on 17 July 1900, resided at Mariahilferstrasse 55 in Vienna, and was Jewish. These records also indicate that Berta Heim left Vienna and was residing in Paris as of December 1938. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother's name matches the published name of the Account Owner. The Claimant identified the Account Owner's city and country of residence, which match unpublished information about the Account Owner contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including a document refusing residency issued by the French government, a certificate of domicile issued by the director of the *Hotel Royal-Versailles* in Paris, her mother's American certificate of naturalization, her mother's death certificate, and the Claimant's own birth certificate, 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. The CRT further 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 fled Vienna for Paris after the *Anschluss*, when her apartment, store and summerhouse were taken, finally emigrating with her family to the United States of America in 1939.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's mother. These documents include the Claimant's own birth certificate, which indicates that Gerda Heim's mother was Bertha Heim, née Oser. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Nazi-controlled Austria after the *Anschluss* in 1938 for Paris, and emigrated to the United States in 1939; that there is no record of the payment of the Account Owner's account to her; that the date of closure of the account as recorded in the Bank's records is illegible; that the Account Owner and her heirs would not have been able to obtain information about her 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 (a), (b), (h) and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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 her mother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a demand deposit 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”). 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 a total award amount of SF 26,750.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
23 April 2007