

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]
represented by David J. Rowland

in re Account of Lydia Josefowitz

Claim Numbers: 402251/NB

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Lydia Josefowitz (the “Account Owner”) at the Zurich 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 his mother, Lydia (Elizabeth) Josefowitz (Gregory), née Sliosberg, who was born on 7 May 1905, in Moscow, Russia, and was married on 18 August 1932 to [REDACTED], who was born on 27 December 1895 in Marienbad, Czechoslovakia (now the Czech Republic). The Claimant stated that his mother, who was Jewish, had three children: [REDACTED 3], who was born on 11 May 1934 in France; the Claimant, who was born on 26 April 1936 in Switzerland; and [REDACTED 2], who was born on 4 June 1942 in New York, the United States. The Claimant indicated that his mother resided at 8 avenue d’Iena, Paris, France, in the late 1930s and that she fled to the United States in approximately 1943, although he was not sure of the exact date. The Claimant stated that his father changed his name from [REDACTED] to [REDACTED] on 28 June 1940 in Connecticut, the United States.

The Claimant finally indicated that his mother and father passed away in New York, the United States, on 26 December 1978 and in March 1983, respectively.

In support of his claim, the Claimant submitted copies of: (1) his family tree, which indicates that Lydia Josefowitz, also known as Elizabeth Gregory, is the mother of [REDACTED 1], [REDACTED 2] and [REDACTED 3]; (2) his brother’s birth certificate, which indicates that

[REDACTED 3] was born on 11 May 1934 in France, and that he was the son of [REDACTED] and Elisabeth Sliosberg, who were residing at 31 avenue Georges V, Paris, France; (3) his brother's birth certificate, which indicates that [REDACTED 2] was born on 4 June 1942, in New York, the United States, and that he was the son of Elizabeth Sliosberg and [REDACTED]; and (4) a judgment of the Superior Court of Fairfield County, Connecticut, the United States, dated 28 June 1940, which indicates that [REDACTED] changed his name to [REDACTED].

The Claimant indicated that he was born on 26 April 1936 in Switzerland. The Claimant is representing his brothers, [REDACTED 3], who was born on 11 May 1934 in France, and [REDACTED 2], who was born on 4 June 1942, in New York, the United States.

Information Available in the Bank's Record

The CRT notes that 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 report an account belonging to Lydia Josefowitz during their investigation of the Bank. The documents evidencing an account belonging to Lydia Josefowitz were obtained from archival sources in the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Lydia Josefowitz, numbered 336.

These records indicate that the Account Owner was Lydia Josefowitz, who resided at 21 bis Avenue d'Iena, Paris, France. The records from the Swiss Federal Archive also indicate that the Bank's last contact with the Account Owner was some time prior to May 1945. These records show that the Account Owner held one demand deposit account at the Bank, which held a balance of 696.00 Swiss Francs ("SF") as of 1 September 1963.

Furthermore, according to the records from the Swiss Federal Archive, the Account Owner's assets were reported to the Registration Office for Assets of Missing Foreigners (the "Registration Office") (*Meldestelle für Vermögen verschwundener Ausländer*) on 12 December 1963. According to these records, on 18 November 1966, the Guardianship Authority of the City of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) appointed Dr. H. Häberlin as the custodian of this account, as prescribed by the Federal Decree.

These records do not contain any information about the disposition of this account. There is no evidence in the records from the Swiss Federal Archive that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother's name, city and country of residence match the published name, city and country of residence of the Account Owner. Furthermore, the Claimant identified the street on which his mother lived, which matches unpublished information about the Account Owner contained in the records of the Swiss Federal Archive.

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 she fled France for the United States in approximately 1943.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Claimant and represented parties [REDACTED 2] and [REDACTED 3] are the Account Owner's children. These documents include his brothers' birth certificates, which indicate that represented parties [REDACTED 2] and [REDACTED 3] are the sons of Elisabeth Sliosberg and [REDACTED] ([REDACTED]).

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the records of the Swiss Federal Archive. The CRT further notes that the Claimant submitted a copy of a judgment from the Superior Court of Fairfield County, Connecticut, the United States, dated 28 June 1940, which indicates that the Account Owner's husband changed his last name from [REDACTED] to [REDACTED]. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess, and which provides independent verification that the Claimant bore the same family name as the Account Owner after it was changed to [REDACTED]. Finally, the CRT 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.

There is no information to indicate that the Account Owner has other surviving heirs, other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate that the Bank had no contact with the Account Owner since some time prior to May 1945, and that the account was still open in November 1966. Given that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the account was included in the 1962 Survey; 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 Presumption (h), 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 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 and the parties he represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that he and the represented parties were the Account Owner's children, and those relationships justify 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 one demand deposit account. The records of the Swiss Federal Archive indicate that the value of the demand deposit account as of 1 September 1963 was SF 696.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 981.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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. Consequently, the total award amount in this case is SF 26,750.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brothers, [REDACTED 2] and [REDACTED 3]. Accordingly, the Claimant and the represented parties are each entitled to one-third of the total award amount.

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
25 November 2008