

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]
represented by Erez Bernstein

in re Account of Josef Langer

Claim Number: 501876/RS

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED 1], (the “Claimant”) to the published account of Josef Langer (the “Account Owner”), over which Olga Langer held power of attorney (the “Power of Attorney Holder”), at the Zurich branch of the [REDACTED] (the “Bank”).

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 her maternal grandmother’s brother, Josef Langer, who was born on 4 June 1874 in Kosetice, Czechoslovakia, and was married to Olga Langer, née Hasterlik. The Claimant stated that Josef Langer, who was Jewish, resided in Prague (today the Czech Republic), and had two children, [REDACTED] and [REDACTED].

According to the Claimant, Josef Langer was deported to Theresienstadt concentration camp in 1942, and subsequently to Auschwitz, where he perished together with his family members.

In support of her claim, the Claimant submitted two pages of testimony submitted to Yad Vashem, in 1955 and 1999, respectively, by her mother, [REDACTED], in which her mother indicated that Josef and Olga Langer resided in Prague at Narudni 20. The Claimant’s mother also indicated in the pages of testimony that Josef Langer was born on 4 June 1874 in Kosetice, Bohemia (today the Czech Republic), that his father’s name was [REDACTED] and his wife’s name was Olga Hasterlik, and that he perished in Teresienstadt or Auschwitz. The Claimant’s mother also indicated in her page of testimony submitted in 1999 that Josef Langer was her uncle.

In addition, the Claimant submitted copies of: (1) two versions of her own birth certificate, indicating that [REDACTED 1] was the daughter of [REDACTED], and that she was born on 27 August 1948 in Haifa, Israel; (2) the birth certificate of [REDACTED], indicating that he was born on 2 March 1955 in Teveria, Israel; (3) the official change of name certificate of represented party [REDACTED 2], indicating that he officially changed his name in Israel from [REDACTED] to [REDACTED 2]; and (4) her mother's death certificate, indicating that [REDACTED], who died in 2003, was the daughter of [REDACTED] and [REDACTED].

The Claimant indicated that she was born on 27 August 1948 in Israel. The Claimant is representing her brother, [REDACTED 2], who was born on 2 March 1955 in Teveria, Israel.

Information Available in the Bank's Record

The Bank's record consists of a power of attorney form and a signature sample form, combined in one document. According to this record, the Account Owner was Josef Langer, who resided at Narodni tr. 20 in Prague, Czechoslovakia (today the Czech Republic), and the Power of Attorney Holder was *Frau* (Mrs.) Olga Langer. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated.

The record also indicates that Josef Langer informed the Bank in April 1924 that all correspondence regarding the account should be sent to Josef Langer, Director (*Direktor*) of *Aussiger Montages m.b.H. & Co.*, in Aussig, Bohemia (today Ústí nad Labem, the Czech Republic).

The Bank's record does not show when the account at issue was closed, nor does this record 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 record that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's grandmother's brother's name and city and country of residence match the published name and city and country of residence of the Account Owner, and the Claimant's grandmother's sister-in-law's name matches the name of the Power of Attorney Holder. The

Claimant identified the Account Owner's exact street address, which matches unpublished information about the Account Owner contained in the Bank's record.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant's mother in 1999, a copy of which was also submitted to the CRT by the Claimant, which indicates that Josef Langer resided at Narodni tr. 20, Prague, and was married to Olga Langer, née Hasterlik, 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.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided different cities or countries of residence than the city or country of residence of the Account Owner, or failed to identify the Power of Attorney Holder, whereas the Claimant identified the exact street address and the Power of Attorney Holder.

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 was deported to Theresienstadt and subsequently to Auschwitz, where he perished together with his family.

As noted above, a person named Josef Langer was included in the CRT's database of victims.

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 grandmother's brother. These documents include a page of testimony submitted to Yad Vashem by the Claimant's mother [REDACTED], indicating that Josef Langer was her uncle; and the Claimant's own birth certificate, indicating that [REDACTED 1] was the daughter of [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs, other than the party whom the Claimant is representing.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record; and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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 she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in 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, the Power of Attorney Holder, or their 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 party she 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 the Account Owner was her grandmother's brother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.

In this case, the Claimant is representing her brother, represented party [REDACTED 2]; both the Claimant and her brother are descendants of the Account Owner's parents. Accordingly, the Claimant and her brother are each entitled to one-half of the total award amount.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
29 September 2009