

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jacob Brabbing
represented by Elisheva Ansbacher

in re Accounts of Dr. Karl Lederer

Claim Number: 216946/ES

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Jacob Brabbing (the “Claimant”) to the accounts of Dr. Karl Lederer (the “Account Owner”) at the Basel branch of 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 his late wife’s paternal uncle, Dr. Karl (or Karel in Czech) Lederer, who was born on 10 April 1910 in Karlsbad (Karlovy Vary in Czech), Czechoslovakia, to Ludvik Lederer and Olga Lederer, née Löwova. The Claimant stated that his late wife, Gabriela Olga Brabbing, née Lederer, was the daughter of Karl Lederer’s only brother, Paul Lederer, who was born on 12 October 1911 in Karlsbad. The Claimant stated that his late wife’s uncle, who was Jewish, was a medical doctor who resided in Karlsbad until 1941, and in Prague, Czechoslovakia, until his deportation to Theresienstadt in 1943. The Claimant stated that Karl Lederer perished in Auschwitz in October 1944, along with his only child, Max. In support of his claim, the Claimant submitted documents, including Karl Lederer’s birth certificate, indicating his parents were Ludvik and Olga Lederer; Paul Lederer’s birth certificate, indicating he was Karl Lederer’s brother; his late wife’s birth and death certificates, indicating her father was Paul Lederer; and a court order indicating that the Claimant is his late wife’s only heir.

The Claimant indicated that he was born on 5 April 1936 in Tel Aviv, Israel.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form signed on 19 May 1938 in Basel, Switzerland, a form with the Account Owner's instructions regarding correspondence, and a card signed by the Account Owner acknowledging the receipt of the general conditions applying to custody accounts, all dated 19 May 1938, and a printout from the Bank's database. According to these records, the Account Owner was Dr. Karl Lederer, who resided at Behredistrasse 2 in Prague-Dejvice, Czechoslovakia, and the Power of Attorney Holders were Anna Mittler and Oskar Mittler. The Bank's records indicate that the Account Owner gave the Bank an order to direct important correspondence to *Frau* (Ms.) Camilla Sachs, who used post office box number 137, which was located in Prague-Dejvice. The Bank's records further indicate that the Account Owner held a demand deposit account and a custody account, both numbered 41686, which were opened on 19 May 1938. The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts 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 accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His late wife's paternal uncle's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified his relative's profession as a doctor, which matches unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted Karl Lederer's birth certificate, indicating his parents were Ludvik and Olga Lederer; Paul Lederer's birth certificate, indicating he was Karl Lederer's brother; and his late wife's birth and death certificates, indicating her father was Paul Lederer.

The CRT notes that the Bank's records indicate the Account Owner resided in Prague-Dejvice, Czechoslovakia in 1938, at the time the Claimant stated that his relative resided in Karlsbad, Czechoslovakia, which is 130 kilometres from Prague. However, since Prague is a central city and the Claimant indicated his relative lived in Prague later, from 1941 to 1943, the CRT finds it plausible that the Claimant's relative held an account in Prague prior to his residence there. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence and different professions than the country of residence and profession of 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 October 1944 in Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting Karl Lederer's birth certificate, Paul Lederer's birth certificate, his late wife's birth and death certificates, and a court order indicating that the Claimant is his late wife's only heir, demonstrating that Karl Lederer is the Claimant's late wife's paternal uncle. 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 and his only son perished in Auschwitz; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's heirs would not have been able to obtain information about his accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating 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 Holders, 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. 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 late wife's uncle and since he is his wife's sole heir, that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs and the average value of a custody account was 13,000.00 Swiss Francs. Thus, the total 1945 average value of the accounts at issue was 15,140.00 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 a total award amount of 189,250.00 Swiss Francs.

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
19 November 2003