

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Anita Bild
represented by Peter Bild

in re Account of Anita Lelewer, Georg Lelewer, and Marie Lelewer

Claim Numbers: 501200/MW; 501439/MW; 501450/MW

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of Anita Bild, née Lelewer, (the “Claimant”) to the published account of Anita Lelewer (“Account Owner Anita Lelewer”), Georg Lelewer (“Account Owner Georg Lelewer”), and Marie Lelewer (“Account Owner Marie Lelewer”) (together the “Account Owners”) at the Basel branch of the [REDACTED] the “Bank”).¹

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 three Claim Forms identifying Account Owner Anita Lelewer as herself, Anita Bild, née Lelewer, who was born on 18 August 1915 in Vienna, Austria, Account Owner Georg Lelewer, as her father, Georg Lelewer, who was born on 29 September 1872 in Vienna, and Account Owner Marie Lelewer as her mother, Marie Lelewer, née Patek, who was born on 24 April 1875. The Claimant indicated that she and her family resided at Kasernengasse 2 in Vienna until 1939. The Claimant explained that her parents married on 23 November 1897 in Vienna, and that she is their only child. The Claimant further explained that she fled Austria to the United Kingdom in February 1939 after acquiring a British work permit. The Claimant stated that her parents, who were Jewish, fled from Austria to the United Kingdom that same year. The Claimant indicated that her mother died in June 1943 in London, and that her father died on 3 April 1960, also in London. In a telephone conversation with the CRT on 24 January 2005, the Claimant’s son, Peter Bild, indicated that his mother had no knowledge that she owned a Swiss bank account. In support of her claim, the Claimant submitted her marriage certificate

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Anita Lelewer, Georg Lelewer, and Marie Lelewer are indicated as each owning one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of one account held jointly by Anita Lelewer, Georg Lelewer, and Marie Lelewer.

showing that her maiden name was Lelewer, that her father's name was Georg Lelewer, and that Georg Lelewer held the title of doctor of law; her father's death certificate showing that her father died on 3 April 1960; and her birth certificate showing that her parents were Dr. Georg Lelewer and Maria Lelewer, née Patek, and that they resided at Kasernengasse 2 in Vienna VI. The Claimant stated that she was born on 18 August 1915 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a joint account opening contract signed on 5 January 1935 and a correspondence instruction form. According to these records, the Account Owners were *Fräulein* (Miss) Anita Lelewer, *Herr* (Mr.) Dr. Georg Lelewer, and *Frau* (Mrs.) Marie Lelewer, née Patek, who all resided at Kasernengasse 2 in Vienna VI. The Bank's records indicate that the Account Owners held a custody account, numbered 40115. The Bank's records do not show when the account at issue 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 Owners or their 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 Dr. Georg Lelewer, numbered 41274, and concerning the assets of Marie Lelewer, née Patek, numbered 41275. These records indicate that Dr. Georg Lelewer and Marie Lelewer, who were married, resided at Kasernengasse 2 in Vienna VI and that both reported their religion as Roman Catholic. They further show that Dr. Georg Lelewer reported total assets worth 75,778.00 Reichsmark ("RM"), of which he considered RM 69,552.00 "fictitious," in as much as they represented capitalized pension rights relating to his former position of President of the Senate (*Senatspräsident*). The remainder consisted of various securities worth 4,156.00 RM, and cash and savings worth RM 1,800.00. The 1938 Census records for Marie Lelewer show that she reported owning real estate worth RM 2,300.00, an insurance policy due in 1943 with *Oesterreichische Versicherungs AG* worth RM 5,161.00, cash and savings worth RM 2,000.00 and jewelry and luxury items worth RM 1,400.00. The records further show that Georg and Marie Lelewer intended to emigrate under the *Gildemeester* program and that they also provided support for the emigration of their daughter. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's and her parents' names, city and country of residence match the published names, city and country of residence of the Account Owners. The Claimant identified the Account Owners' street address in Vienna, which matches unpublished information about the Account Owners contained in the Bank's records. In support of her claim, the Claimant submitted documents, including her marriage certificate showing that her maiden name was Lelewer, that her father's name was Georg Lelewer, and that Georg Lelewer held the title of doctor of law; her father's death certificate documenting that he died on 3 April 1960; and her birth certificate showing that her parents were Dr. Georg Lelewer and Maria Lelewer, née Patek, and that they resided at Kasernengasse 2 in Vienna VI. These documents provide independent verification that the persons who are claimed to be Account Owners have the same names and street address recorded in the Bank's records as the names and street address of the Account Owners.

The CRT notes that there are no other claims to this account.

Status of the Account Owners as Victims 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 Owners were Jewish, and that she and her family were forced to flee Austria to the United Kingdom in 1939.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she herself is one of the Account Owners and that she is related to the others by submitting specific information and documents, demonstrating that Account Owner Anita Lelewer is the Claimant, that Account Owner Georg Lelewer was the Claimant's father, and that Account Owner Marie Lelewer was the Claimant's mother. These documents include her marriage certificates showing that her father's name was Georg Lelewer; and her birth certificate showing that her parents were Dr. Georg Lelewer and Maria Lelewer, née Patek. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owners fled Austria in 1939; that there is no record of the payment of the

Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners would not have been able to obtain information about their 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners. 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 she is Account Owner Anita Lelewer, that Account Owner Georg Lelewer was the Claimant's father, and Account Owner Marie Lelewer was the Claimant's mother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that the Account Owners did not receive the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held 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 custody account was 13,000.00 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 162,500.00.

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 claims 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
31 March 2005