

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Herta Josefina Goldsmith
also acting on behalf of Erika Allen and Katherine Levitan

in re Account of Alice Lenz

Claim Number: 208172/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Herta Josefina Goldsmith, née Lenz, (the “Claimant”) to the account of Robert Lenz.¹ This award is to the published account of Alice Lenz (the “Account Owner”) at the Lausanne 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 her sister, Alice Lizzi Goldberg, née Lenz, who was born in 1924 in Vienna, Austria, to Dr. Robert Lenz and Janka Johanna Lenz. The Claimant explained that following the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), her sister was expelled from school because she was Jewish. The Claimant further indicated that in 1939, on the night of the *Kristallnacht* (Night of Broken Glass) pogrom, Nazi soldiers broke into the house where the Claimant and her family resided, looted the valuables, and arrested the Claimant’s father, who was then detained at the Dachau concentration camp for approximately eight days. The Claimant explained that following the release of her father from the camp, the Claimant’s family, including her sister, fled to Switzerland, and they emigrated to the United States six months later. The Claimant indicated that her sister died in 1986 in New York, United States. In support of her claim, the Claimant submitted her birth certificate, indicating that Josefina Herta Lenz was born in Vienna to Dr. Robert Lenz and Janka Lenz, née Wessel.

¹ The CRT did not locate an account belonging to Robert Lenz in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

The Claimant previously submitted Initial Questionnaires to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Robert Lenz, Johanna Lenz, and Herta Josefine Lenz.²

The Claimant indicated that she was born on 22 September 1921 in Vienna. The Claimant is representing her cousins Erika Allen, née Lenz, and Katherine Levitan, née Lenz, who were both born in Vienna on 8 November 1930 and 8 July 1933, respectively.

Information Available in the Bank's Record

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 provide any Bank's records pertaining to the account, but instead they prepared a report on the account. According to this report, the Account Owner was Alice Lenz. The Account Owner's place of residence is not indicated. The ICEP auditors reported that the Account Owner held an account, the type of which is not indicated. According to the ICEP auditors' report, the account was transferred into a suspense account for dormant assets, where it remains today with a balance of 23.95 Swiss Francs ("SF"). The date of the transfer is not reported.

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 the Claimant's parents, Dr. Robert Lenz, who was born on 6 June 1886 and Johanna Lenz, who was born on 20 March 1895, numbered 33901 and 33186, respectively. These documents indicate that Dr. Robert and Johanna Lenz, residents of Vienna, owned an apartment building and a house in Vienna, as well as a farmhouse in Hungary. The records further indicate that the couple was assessed flight tax (*Reichsfluchtsteuer*) of 23,221.00 Reichsmark ("RM"). The records further indicate that Dr. Robert Lenz held RM 6,055.20 worth of bonds and securities. 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 sister's name matches the published name of the Account Owner. The CRT notes that the report prepared by the ICEP auditors does not contain any specific information about the Account Owner other than her name.

² The CRT did not locate an account belonging to Robert Lenz, Johanna Lenz, or Herta Lenz in the Account History Database prepared pursuant to the ICEP Investigation.

The CRT notes that the name Alice Lenz appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Dr. Robert Lenz, prior to the publication of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the Claimant's sister would have been a young girl at the time that the account was opened. However, the CRT finds it plausible that the Claimant's parents may have opened the account in their daughter's name.

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 following the *Anschluss*, the Account Owner was expelled from school because she was Jewish. The Claimant further indicated that following *Kristallnacht*, her sister and her family fled from Austria to Switzerland and eventually to the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's sister. The CRT further notes that the Claimant submitted a copy of her birth certificate, which provides independent verification that the Claimant bore the same family name as the Account Owner. 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. There is no information to indicate that the Account Owner has surviving heirs who have filed claims, other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

The information compiled by the ICEP auditors indicates that the account was transferred to a suspense account, where it remains today.

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 Governing the Claims Resolution Process (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owner was her sister and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Further, the CRT notes that the Claimant, as the Account Owner’s sister, has a better entitlement to the account than represented party Erika Allen and represented party Katherine Levitan, the Account Owner’s cousins.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The information provided by the ICEP auditors indicates that the value of the account was SF 23.95. According to Article 29 of the Rules, if the amount in an unknown type of account was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is calculated by multiplying the balance as determined by Article 29 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. As noted above, the Claimant, as the Account Owner’s sister has a better entitlement to the account than represented party Erika Allen and represented party Katherine Levitan, the Account Owner’s cousins. Accordingly, the Claimant is entitled to the entire amount of the Award.

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
17 November 2006