

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Joseph Levenberg and Judith Loewenberg

Claim Numbers: 219687/MW; 219688/MW

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Joseph Levenberg (“Account Owner Joseph Levenberg”) and the published accounts of Judith Loewenberg (“Account Owner Judith Loewenberg”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”). On 19 November 2003, the Court approved an award for one custody account held jointly by Joseph Loewenberg and Judith Loewenberg and to one custody account held by [REDACTED]. This Award is the result of the additional review of the Bank's records relating to accounts held by Joseph Levenberg and Judith Loewenberg.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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying Account Owner Judith Loewenberg as his maternal aunt, Judith Loewenberg (also known as Levenberg), née Zalkinder, who was born in 1887 in Talsi, Latvia, and was married to [REDACTED], the Claimant's uncle. According to the Claimant, his aunt and uncle had two children, Joseph Shmerel Loewenberg, who was born in 1909, and [REDACTED], who was born on an unknown date and died in 1920. The Claimant indicated that his relatives, who were Jewish, lived on Dzirnavlstrasse and Elizabethstrasse in Riga, Latvia. The Claimant further indicated that his uncle owned a pharmacy where his aunt also worked. According to the Claimant, [REDACTED] died in 1932, and Judith Loewenberg and Joseph Shmerel Loewenberg lived in Riga until 1941, when they perished under the Nazi regime sometime after 1941. The

¹ In the Award released on 19 November 2003, the Account Owners are referred to as Account Owner Joseph Loewenberg and Account Owner Judith Loewenberg. The CRT notes that the Bank's records contain different variations of Account Owner's Joseph Levenberg's last name. The account-opening contract, which was partially filled out by the Account Owners and signed by them, refers to the joint Account Owners as Joseph Levenberg and Judith Loewenberg. Consequently, in this Award, the CRT shall refer to the Account Owners as Account Owner Joseph Levenberg and Account Owner Judith Loewenberg.

Claimant stated that his mother was the only survivor of her entire family and that she died in 1960. The Claimant indicated that he was born on 14 October 1932 in the Ukraine.

Information Available in the Bank's Records

The Bank's records consist of a forwarding address form, dated 13 March 1932; a certificate from a court in Riga, Latvia, dated 14 December 1932; and a joint account-opening contract, dated 20 February 1933.

According to these records, the Account Owners were *Frau* (Mrs.) Judith Loewenberg and Joseph Levenberg, both of whom resided at Marienstrasse 4a, dz. 13, Riga, Latvia. The Bank's records indicate that the Account Owners jointly held a demand deposit account and a custody account, both numbered 37579. The Bank's records further indicate that on 13 December 1932, a Riga court issued a decision numbered 2112, which stated that Account Owner Joseph Levenberg was a trustee of [REDACTED]'s Estate. These records also indicate that the previous owner of custody account 37579 was [REDACTED], who used an address of a drug store at Elisabeth str. 89 in Riga, Latvia.

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 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 Owners or their heirs closed the accounts and received the proceeds themselves.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His aunt and cousin's names match the published names and city of residence of the Account Owners. The Claimant identified his relatives' street address, and the fact that his aunt and uncle owned a pharmacy, which all match unpublished information about the Account Owners contained in the Bank's records. The CRT notes that the Claimant was previously awarded the accounts of his aunt, uncle, and cousin, based on the Claimant's identification of unpublished information about his aunt's maiden name, his uncle's first name and the type of business he owned, which all matched information in the Bank's record. In addition, the Claimant stated that his uncle died in 1932, which is consistent with the information contained in the Bank's records

concerning the Estate of [REDACTED]. The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city and country of residence than the city and country of residence of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they lived in Nazi occupied Riga until 1941, where they perished sometime after 1941.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific biographical information about his relatives demonstrating that they were his aunt and cousin. The CRT notes that the Claimant identified unpublished information about his relatives, as contained in the Bank's records. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

In the award released to the Claimant on 19 November 2003, the CRT determined that it is plausible that the proceeds of the custody account were not paid to the Account Owners or their heirs.

With regard to the demand deposit account, given that the Account Owners lived in Nazi occupied Latvia where they perished in approximately 1941; 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 and their heirs 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 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 account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his aunt and cousin, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Award is for one demand deposit 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. 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 26,750.00 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
8 June 2004