

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Elisheva Ansbacher

in re Accounts of Xenia Levi-Poliakoff

Claim Number: 401458/MBC

Award Amount: 158,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”), to the published accounts of Xenia Levi-Poliakoff (the “Account Owner”) at the Lausanne 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 great-aunt, Xenia Levi-Poliakoff, née Poliakoff, who was born on 3 September 1872 in Moscow, Russia, and was married to [REDACTED] in approximately 1900 in Florence, Italy. The Claimant explained that [REDACTED], who was born on 7 September 1870 in Venice, Italy, was the brother of the Claimant’s maternal grandmother, Klotilde Levi. The Claimant indicated that Xenia Levi-Poliakoff, who was Jewish, moved to Florence, where she lived with her husband until 1944. The Claimant stated that in April 1944, her great-aunt and her great-uncle were first detained in Fossoli concentration camp in Italy, and then deported to Auschwitz, where they perished in 1944. The Claimant stated that her great-aunt had no children.

In support of her claim, the Claimant submitted: (1) her own marriage certificate, indicating that [REDACTED] married [REDACTED] in a Jewish ceremony in Venice on 22 December 1975; (2) her own birth certificate, indicating that [REDACTED] was born on 27 November 1925 in Venice; (3) two extracts from an unnamed publication listing Italian residents who perished in the Holocaust, listing Xenia Poliakoff, who was born on 3 September 1872, was married to [REDACTED], and who was detained at Fossoli camp and deported on 5 April 1944 to Auschwitz, where she arrived on 10 April 1944; and also listing [REDACTED], who was married to Xenia Poliakoff, and was detained and deported on the same dates and in the same places as his wife; and (4) a page of testimony submitted by the Claimant to Yad Vashem in

September 1999 regarding Xenia Levi Delle Trezze, née Poliakoff, indicating that she was born on 3 September 1872, that she resided in Florence, and that she was detained in Fossoli concentration camp and Auschwitz, where she perished in 1944.

The Claimant indicated that she was born on 27 November 1925 in Venice, Italy.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Xenia Levi-Poliakoff during their investigation. The documents evidencing accounts belonging to Xenia Levi-Poliakoff were obtained from archival sources in the Swiss Federal Archive, and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Xenia Levi-Poliakoff, numbered 469.

According to these records, the Account Owner was Xenia Levi-Poliakoff, whose last known temporary residence was the *Hotel Eden* in Lausanne, Switzerland, and who previously resided at 8 Lung'Arno Acciaiuoli, in Florence, Italy. According to the records from the Swiss Federal Archive, the Account Owner held the title of Baroness. These records indicate that the Bank had had no contact with the Account Owner since 3 October 1941.

Furthermore, according to the records from the Swiss Federal Archive, the account at issue was reported by the Bank to the registration office for assets of missing foreigners at the Swiss Federal Justice Department on 28 February 1964; on 12 January 1966 it was reported by the Justice Department to the Justice of the Peace for the region of Lausanne (*Justice de Paix du Cercle de Lausanne*); and on 20 January 1966 it was placed under the guardianship of Roger Perret, a sub-director of the Bank in Lausanne.

The records from the Swiss Federal Archive further indicate that on 13 November 1968, Mr. Perret wrote to the Justice of the Peace of Lausanne, describing the results of his investigation tracing potential heirs of the Account Owner. According to these records, Mr. Perret had requested that the *Red Cross* in Geneva, Switzerland provide him with information concerning the fate of the Account Owner, as well as names of her potential heirs.

According to the records, the *Red Cross* reported to Mr. Perret that it believed that Baroness Xenia Levi, née Poliakoff, was born on 5 September 1865 in Moscow, Russia, that she resided in Florence, Italy, and that she was Italian by marriage. These records further indicate that the Account Owner and her husband, Baron [REDACTED], were deported by the Nazis in 1944.

The records from the Swiss Federal Archive indicate that the Account Owner held one demand deposit account and one safe deposit box at the Bank. These records further indicate that the safe deposit box was forcibly opened by the Bank on 20 December 1963, in order for an inventory of its contents to be made, and that it was found to contain various jewels and other items. These records further indicate that as of January 1964, the demand deposit account held a balance of 1,191.00 Swiss Francs (“SF”), and that the value of the jewelry and other items in the safe deposit box was approximately SF 10,000.00, according to a professional estimate of the contents undertaken by a Swiss jeweler.

The records further indicate that the Lausanne District Court (*Tribunal du District de Lausanne*) had followed procedures for declaring the Account Owner untraceable, and had published her name in Lausanne in accordance with procedure; receiving no response to the publication, the legal authorities in Lausanne then ordered the guardian of the assets at the Bank to deposit the full value of the Account Owner’s assets in the Swiss national ‘Unclaimed Assets Fund’ (*Fonds des biens en déshérence*, *Services fédéraux de caisse et de comptabilité, Bern*) in Bern in August 1973.

There is no evidence in these records that the Account Owner or her heirs received the proceeds of these accounts themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s great-aunt’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s city of residence and husband’s name, which match unpublished information about the Account Owner contained in the records from the Swiss Federal Archive.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant in 1999, which indicates that Xenia Levi, née Poliakoff, was born on 3 September 1872 in Moscow, Russia, resided in Florence Italy with her husband [REDACTED], and perished in Auschwitz in 1944, 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 name Xenia Levi-Poliakoff appears only once on the List of Account Owners Published in 2005 (the “2005 List”).

The CRT notes that there are no other claims to these accounts. 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 the Account Owner was Jewish, and that she and her husband were both detained in a concentration camp in Italy, and both perished in Auschwitz in 1944. As noted above, a person named Xenia Levi, née Poliakoff, 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 biographical information, demonstrating that the Account Owner was the Claimant's great-aunt. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the records from the Swiss Federal Archive. 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

According to the records from the Swiss Federal Archive, the proceeds of the two accounts were transferred to the Swiss national Unclaimed Assets Fund (*'Fonds des biens en déshérence'*, *Services fédéraux de caisse et de comptabilité, Bern*) in Bern in 1973.

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 her great-aunt, 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 accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one safe deposit box. The records from the Swiss Federal Archive indicate that the value of the demand deposit account as of January 1964 was SF 1,191.00, and that the value of the contents of the safe deposit box was approximately SF 10,000.00. In accordance with Article 31(1) of the Rules, the value of the demand deposit account is increased by an adjustment of SF 300.00, and the value of the safe deposit box by an adjustment of SF 500.00, which reflect standardized bank fees charged to the

accounts between 1945 and 1964. Consequently, the adjusted balance of the demand deposit account at issue is SF 1,491.00, and the adjusted balance of the safe deposit box is SF 10,500.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the sum of the adjusted balance of the safe deposit box, namely SF 10,500.00, and the balance as determined by Article 29 of the demand deposit account, namely SF 2,140.00 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 158,000.00.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2009