

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Barry Silvan Goldmeier,
also acting on behalf of Lee Goldmeier

in re Accounts of Hortense Levinger

Claim Number: 220773/RS¹

Award Amount: 76,125.00 Swiss Francs

This Certified Award is based upon the claim of Barry Silvan Goldmeier (the “Claimant”) to the published accounts of Hortense Levinger (the “Account Owner”) at the Zurich 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 and an Initial Questionnaire (“IQ”) identifying the Account Owner as his great-grandmother’s brother’s wife (his great-grandmother’s sister-in-law), Hortensia Levinger, née Königswerther, who was Jewish, who was born on 16 April 1869 in Frankfurt am Main, Germany, and who married Robert Raphael Levinger on 13 May 1898 in Krumbach, Germany. The Claimant stated that Robert Raphael Levinger, who was a wealthy businessman and property owner, was the brother of his great-grandmother Josephine Bernheim, née Levinger.

The Claimant stated that he believed that Hortensia and Robert Raphael Levinger resided in Krumbach following their marriage, and that they also had apartments in Berlin and in Baden-Baden. The Claimant stated that Hortensia and Robert Raphael Levinger traveled frequently and

¹ Claimant Goldmeier (the “Claimant”) submitted fifteen additional claims, which are registered under the Claim Numbers 220774, 220775, 220776, 220777, 220778, 220779, 223278, 223279, 223363, 223364, 223365, 223366, 223367, 223368, and 223369. In separate decisions, the CRT awarded the accounts of Jakob Baumann and Bertha Baumann to the Claimant. See *In re Accounts of Jakob Baumann* (approved on 11 May 2005) and *In re Account of Bertha Baumann* (approved on 17 November 2006). In separate decisions, the CRT also treated the Claimant’s claim to the accounts of Julius Loewenthal, Martha Loewenthal, Eva Kahn, and Henri Bernheim. See *In re Account of Julius Loewenthal* (approved on 30 November 2005); *In re Account of Martha Loewenthal* (approved on 23 January 2006); *In re Accounts of Eva Kahn* (approved on 23 January 2006); and *In re Account of Henri Bernheim* (approved on 23 January 2006). The CRT will treat the remaining claims in separate determinations.

extensively abroad, including trips to Switzerland and France. The Claimant further stated that prior to the Second World War, Hortensia and Robert Raphael Levinger deposited substantial assets, including coins, bonds, and jewelry, in Swiss bank accounts.

The Claimant stated that Hortensia and Robert Raphael Levinger did not have any children, and that Hortensia Levinger designated the Claimant's grandmother, Jette Goldmeier, née Bernheim, who was the daughter of Robert Raphael Levinger's sister Josephine Bernheim, as her sole heir.

According to the Claimant, Hortensia Levinger and her husband perished in an unknown concentration camp in 1939 or 1940. The Claimant indicated that none of the members of his family ever heard from Hortensia Levinger again after 1939.

The Claimant further stated that from the end of the Second World War through the 1970s, his father unsuccessfully attempted to recover Hortensia Levinger's assets from Swiss banks, and that his father had even visited banks in Bern on multiple occasions in an attempt to recover those assets.

In support of his claim, the Claimant submitted documents, including:

- 1) the marriage certificate of his great-grandmother's brother and sister-in-law, indicating that Robert Raphael Levinger and Hortensia Königswerther, who were both Jewish, were married on 13 May 1898, and that Hortensia Königswerther was born in Frankfurt am Main on 16 April 1869;
- 2) a postcard from Monte Carlo, dated 1903, addressed to his paternal grandmother *Mlle.* (Miss) Jettchen Bernheim in Krumbach, and signed by her "Uncle Robert and Aunt Horthy" (*Onkel Robert und Tante Horthy*);
- 3) the marriage certificate of his paternal grandparents, indicating that Siegfried Goldmeier and Jette Bernheim, who were both Jewish, were married on 11 December 1919 in Kappel, Riedlingen, Germany, and that Jette Bernheim was born on 2 April 1894 in Neu-Ulm to Berthold Bernheim and Peppi Bernheim, née Levinger, both of whom lived in Krumbach;
- 4) his father's birth certificate, indicating that Bruno Goldmeier was born in Würzburg, Germany on 21 March 1922;
- 5) the 1936 passports of his paternal grandparents and his father, indicating that Siegfried Goldmeier, Jettchen (Jette) Goldmeier, and Bruno Goldmeier lived in Berlin-Schöneberg, Germany; and

- 6) his paternal grandmother's death certificate, dated 1979, indicating that Yetta Goldmeier was born on 2 April 1894 in Germany, and that her parents were Berthold Bernheim and Josephine Levinger.

The Claimant indicated that he was born on 12 April 1946 in Brooklyn, the United States. The Claimant is representing his brother, Lee Goldmeier, who was born on 26 March 1950 in Brooklyn.

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 Hortense Levinger during their investigation of the Bank. The documents evidencing accounts belonging to Hortense Levinger were obtained from archival sources in Switzerland 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 Hortense Levinger, numbered 342. These records indicate that on 17 March 1967, the Zurich guardianship authorities appointed Dr. H. Häberlin of Weinfelden, Switzerland, as guardian of these assets.

According to these records, the Account Owner was *Frau* (Mrs.) Hortense Levinger, who was Jewish, who was a German national, and who resided at Schützenstrasse 2 in Baden-Baden, Germany. These records further indicate that the Bank's last contact with the Account Owner came in the form of a 11 July 1938 letter from the Account Owner, in which she indicated that she was temporarily staying with *Mlle.* (Miss) E. Haentschel in Strasbourg, France, but that she would subsequently return to Baden-Baden.

These records indicate that the Account Owner held an account of an unknown type at the Bank containing 275.00 United States Dollars ("US \$") in bank notes as of 1 September 1963, which the Bank determined to be equivalent to 1,184.55 Swiss Francs ("SF") as of that date. The records also indicate that the Account Owner held a demand deposit account at the Bank with a balance of SF 1,243.90 as of 1 September 1963.

The records do not contain information about the disposition of these accounts.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-grandmother's sister-in-law's name matches the published name of the Account Owner.² The Claimant identified the Account Owner's marital status, nationality, city and country of residence, and a country that she visited, all of which match unpublished information about the Account Owner contained in the records from the Swiss Federal Archive.

In support of his claim, the Claimant submitted documents, including Hortensia Levinger's marriage certificate, and a postcard addressed to his paternal grandmother, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Swiss Federal Archive records as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hortense or Hortensie Levinger, née Koenigswerther, and indicates that her date of birth was 16 April 1869 and place of birth was Frankfurt, that she resided in Baden-Baden, and that she perished in French concentration camp Gurs in 1941, which matches the information about the Account Owner provided by the Claimant.³ The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Hortense Levinger appears only once on the List of Account Owners Published in 2005 (the "2005 List").

The CRT notes that the Claimant filed an IQ with the Court in 1999, and a Claim Form with the CRT in 2001, asserting his entitlement to Swiss bank accounts owned by Hortensia Levinger, prior to the publication of the 2005 List. This indicates that the Claimant has based his present claim not on the fact that an individual identified on the 2005 List as owning Swiss bank accounts bears the same name as his relative, but rather on a direct family relationship that was known to him prior to the publication of the 2005 List. It also indicates that the Claimant had reason to believe that his relative owned Swiss bank accounts prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

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 perished in a

² The CRT notes that Hortensia is a version of the name Hortense, and that the victims database referenced in this decision indicates that the Claimant's relative, who was born on 16 April 1869, also used the name Hortense or Hortensie.

³ The database indicates that Hortense (Hortensie) Levinger perished on 21 December 1941 at Gurs concentration camp in France.

concentration camp. As noted above, a person named Hortense (Hortensie) Levinger was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's great-grandmother's sister-in-law. There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant is representing.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Swiss Federal Archive records; that the Claimant filed an IQ with the Court in 1999, and a Claim Form with the CRT in 2001, identifying the relationship between the Account Owner and the Claimant, prior to the publication in 2005 of the 2005 List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted copies of his grandmother's marriage certificate and death certificate, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner. The Claimant also submitted a postcard indicating that his grandmother had an aunt who used a name which is a diminutive form of the Account Owner's first name. 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 he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate that the accounts were reported in the 1962 Survey, and that their ultimate disposition is unknown.

Given that the Account Owner and her husband perished in a concentration camp and that they had no descendants; that the accounts were reported in the 1962 Survey and that they were dormant at least as of that date; that there is no record of the payment of the Account Owner's accounts to her, nor any record of a date of closure of the accounts; that the Account Owner's heirs were not able to obtain information about her accounts 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 (e) and (h), 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 or her 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 great-grandmother's sister-in-law, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Claimant held one account of an unknown type. The records from the Swiss Federal Archive indicate that that account held US \$275.00 in bank notes as of 1 September 1963, which was equivalent to SF 1,188.00.⁴ In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 1,473.00. According to Article 29 of the Rules, if the amount in an account of an unknown type 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 determined 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 an award amount for this account of SF 49,375.00.

The Claimant also held one demand deposit account. The records from the Swiss Federal Archive indicate that the value of the demand deposit account as of 1 September 1963 was 1,243.90. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 1,528.90. 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 balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount for this account of SF 26,750.00.

Consequently, the total award amount for both accounts is SF 76,125.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing his brother. The CRT

⁴ The CRT uses official exchange rates when making currency conversions. The CRT notes that this official exchange rate is slightly different from the exchange rate used by the Bank as evidenced in the Swiss Federal Archive records.

determines it fair and equitable, as well as consistent with the principle, set forth in Article 23(1), of apportionment in equal shares by representation, for the Claimant and his brother, represented party Lee Goldmeier, to each receive one-half of the total award amount. Accordingly, the Claimant is entitled to one-half of the total award amount, and represented party Lee Goldmeier is entitled to one-half of the total award amount.

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 claims 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
21 December 2007