

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

and to Claimant [REDACTED 3]

in re Account of Max Levy

Claim Numbers: 213172/BE; 710260/BE¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Ingeborg Beacham, née Levy (“Claimant Beacham”) to the accounts of Gerhard and Mary Levy and herself, Ingeborg Beacham,² and upon the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Josef Keller.³ This Award is to the published account of Max Levy (the “Account Owner”) at the [REDACTED] (the “Bank”).⁴

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.

¹ [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted two Initial Questionnaires (“IQ”), numbered GER 0057 124 and GER 0057 125, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). These IQs were forwarded to the CRT and have been assigned claim numbers 710259 and 710260, respectively. The CRT has treated claim numbered 710259 in a separate determination.

² The CRT did not locate an account belonging to Gerhard Levy, Mary Levy, or Ingeborg Beacham, née Levy, 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”).

³ The CRT will treat the claim to this account in a separate determination.

⁴ The CRT notes that 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 name of the Account Owner appears as Max Lucien Levy from Brussels, Belgium. The CRT notes that this name appears on a Bank document pertaining to a separate account belonging to another person, and that Max Lucien Levy was the power of attorney holder to that account. Other documents in the account file indicate that a person named Max Levy, whose domicile is not provided, held an account in his own name. Upon careful review, the CRT has determined that the documents refer to two different persons named Max Levy. The account awarded here is that belonging to the person named Max Levy with an unknown domicile.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her paternal grandfather, Max Levy. In a telephone conversation with the CRT, Claimant [REDACTED 1] stated that her grandfather was from Germany, where he resided all his life. Claimant [REDACTED 1] indicated that her grandfather, who was Jewish, had two sons: her father, [REDACTED], and his brother, who together owned a department store called *W. Loewenstein*, which was looted by the Nazis in approximately October 1938. Claimant [REDACTED 1] stated that, shortly after the store was looted, her father was arrested and sent to prison, never to be heard from again, and that her mother lived in hiding before being captured and deported to Auschwitz, where she perished. Claimant [REDACTED 1] stated that her grandfather died in Germany some time prior to the outbreak of the Second World War.

Claimant [REDACTED 1] indicated that she was born on 19 October 1928 in Forst Lausitz, Germany. Claimant [REDACTED 1] is representing her sister, [REDACTED 2], née [REDACTED], who was born on 6 January 1932 in Forst Lausitz.

Claimant Beacham previously submitted an Initial Questionnaire (“IQ”) to Court in 1999 asserting her entitlement to a Swiss bank account owned by herself, her father, Gerhard Levy, and her grandfather, Max Levy.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an IQ identifying the Account Owner as his paternal great-uncle, Max Levy, who was born on 18 March 1883 in Haaren (Aachen), Germany. In a telephone conversation with the CRT, Claimant [REDACTED 3]’s mother, [REDACTED], stated that the entire Levy family lived in Belgium and that most of its members perished in Nazi death camps. [REDACTED] further stated that her husband’s uncle, Max Levy, perished in similar circumstances. According to Claimant [REDACTED 3], the only survivors in the Levy family were his father, [REDACTED], his uncle, [REDACTED], and his aunt, [REDACTED].

In support of his claim, Claimant [REDACTED 3] submitted copies of a published memorial notice, which specifies the members of the Levy family who died during the Second World War, indicating that Max Levy was born on 18 March 1883 in Haaren, and that he was deported to Theresienstadt, where he was killed; and his father’s death certificate, indicating that [REDACTED] was born in Aachen, and married to [REDACTED], née [REDACTED].

Claimant [REDACTED 3] indicated that he was born on 30 March 1953.

Information Available in the Bank’s Records

The Bank’s records consist of lists of account owners including a list of account owners of unknown domicile whose inactive accounts were closed by fees; a letter and circular from the

Bank to another bank and a printout from the Bank's database. According to these records, the Account Owner was Max Levy. The Bank's records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, which was suspended on 31 December 1943 when it held a balance of 7.50 Swiss Francs ("SF"). The Bank's records indicate that the account was closed to fees on 12 July 1946.

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 Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s grandfather's and Claimant [REDACTED 3]'s great-uncle's name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of his claim, Claimant [REDACTED 3] submitted documents, including a memorial notice that includes the name Max Levy, providing independent verification that the person who is claimed to be the Account Owner had the same name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Levy, and indicates that his date of birth was 18 March 1883 and that his place of birth was Haaren, which matches the information about the Account Owner provided by Claimant [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Max Levy appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List.")

The CRT notes that both Claimants filed IQs with the Court in 1999, either asserting their entitlement to a Swiss bank account owned by Max Levy or mentioning his name, prior to the publication in February 2001 of the ICEP List. This indicates that both Claimants have based their 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 their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that Claimant [REDACTED 1]'s grandfather and Claimant [REDACTED 3]'s great-uncle are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish. The CRT notes that Claimant [REDACTED 1] stated that her relative died prior to the Second World War, but did not specify whether he was alive after the Nazis came to power and prior to the outbreak of the War. In any case, the CRT notes that her grandfather's sons and direct heirs, who were also Jewish, resided in Nazi Germany, that they co-owned a department store that was looted by the Nazis, that her father was arrested and sent to prison, never to be heard from again.

Claimant [REDACTED 3] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish, and that he was killed in Theresienstadt, along with many other members of his family. Claimant [REDACTED 3] also submitted a published memorial notice, which specifies the members of the Levy family that died in Second World War, and indicates that Max Levy was deported to Theresienstadt, where he was killed.

As noted above, a person named Max Levy corresponding to Claimant [REDACTED 3]'s relative was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have each plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather and Claimant [REDACTED 3]'s great-uncle.

The CRT further notes that the Claimants filed IQs with the Court in 1999, identifying the relationship between the Account Owner and themselves, prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 3] also identified information which matches information contained in the Yad Vashem records. The CRT further notes that Claimant [REDACTED 3] submitted a copy a memorial notice, identifying a Max Levy. The CRT notes that it is plausible that this document is a document, which most likely only a family member would possess. The CRT further notes that Claimant [REDACTED 3] submitted a copy of his father's birth certificate, indicating that his father's name was [REDACTED], which provides independent verification that Claimant [REDACTED 3]'s relatives 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they has asserted in their Claim Form. The CRT notes that Claimant [REDACTED 3] has indicated that he has other surviving relatives, but that because they are not represented in the Claimant [REDACTED 3]'s claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed to fees.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants and the party whom Claimant [REDACTED 1] is representing. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her grandfather and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his great-uncle, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of an unknown type. The Bank's records indicate that the value of the account as of 31 December 1943 was SF 7.50. 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. Consequently, the total award amount in this case is SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and her sister, [REDACTED 2], are entitled to share one half of the Award amount, and Claimant [REDACTED 3] is entitled to the other half of the Award amount.

With respect to the portion of the Award designated to Claimant [REDACTED 1] and her sister, according to Article 24(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim in equal shares by representation. Accordingly Claimant [REDACTED 1] and her sister

are each entitled to one half of this portion of the award, or one-quarter each of the total Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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