

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 [REDACTED 3]

in re Account of Leopold Liebes

Claim Number: 400965/AK

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Leopold Liebes (the “Account Owner”) at the Zurich 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 in 2005 identifying the Account Owner as his great-grandfather, Leopold (Leo, Leon) Liebes, who was born on 15 January 1868 in Germany, and was married to [REDACTED], née [REDACTED]. The Claimant stated that his great-grandfather was a businessman and that he resided in Hamburg, Germany during the 1930s. The Claimant further stated that Leopold and [REDACTED], who were Jewish, had three children: [REDACTED], [REDACTED], and [REDACTED], the Claimant’s maternal grandfather, who was married to [REDACTED 3], née [REDACTED]. According to the Claimant, Leopold Liebes owned a business in Hamburg, named *Goldtree and Liebes*, which was aryanized during the late 1930s, forcing him to flee to El Salvador. Finally, the Claimant stated that Leopold Liebes died on 23 September 1945 in El Salvador, never having returned to Europe to settle his financial affairs.

The Claimant submitted Léon Liebes’s death certificate, indicating that he was originally from Kempen, Germany, that he was married to [REDACTED], and that he died on 23 September 1945 in El Salvador; a Last Will and Testament, signed by Leo Liebes on 12 July 1941, indicating that his son [REDACTED] was his heir; the marriage certificate of [REDACTED] and [REDACTED], indicating that they married on 25 June 1937 in El Salvador, and identifying [REDACTED] as the son of Leopold Liebes and [REDACTED] [*sic*]; [REDACTED 2]’s birth

certificate, indicating that she is the daughter of [REDACTED] and [REDACTED]; and his own birth certificate, indicating that the Claimant is the son of [REDACTED 2] and [REDACTED].

The Claimant indicated that he was born on 17 August 1969 in Tuscon, Arizona, the United States. The Claimant is representing his mother, [REDACTED 2], who was born on 28 August 1938 in San Salvador, El Salvador, and his maternal grandmother, [REDACTED 3], née [REDACTED], who was born on 6 September 1913 in Hamburg.

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 Leopold Liebes during their investigation of the Bank. The documents evidencing an account belonging to Leopold Liebes, which are further described below, were obtained from archival sources in Germany.

Information Available from the *Oberfinanzdirektion Berlin* 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, 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 *Oberfinanzdirektion Berlin* Archive ("OFD-Berlin"), there are documents concerning the assets of Leopold (Leo, Leon) Liebes, file record 912-6316. These records include Leopold Liebes' 1938 Census declaration, which he signed on 1 October 1938 in San Salvador. According to this declaration, Leopold Liebes was born on 14 January 1868 in Kempen, was married to [REDACTED], née [REDACTED], and owned a share in *Goldtree and Liebes*, Hamburg. According to the declaration, Leopold Liebes owned Chilean securities worth 2,000.00 Reichsmark ("RM"), which were held in Switzerland. In a notation on his declaration, Leopold Liebes noted that, as a citizen of El Salvador, he was not required to submit a Census declaration and was doing so without prejudice. An additional notation indicates that he was supporting his relatives in Germany with a monthly stipend. Correspondence in the records between Leopold Liebes' attorney and the tax authorities in Berlin and other officials indicate that Leopold Liebes emigrated in April 1937 and that he became a citizen of El Salvador on 10 September 1938. In addition, the correspondence indicates that Leopold Liebes was assessed atonement tax (*Judenvermögensabgabe*) of 37,400.00 Reichsmark ("RM") on 26 October 1939, and that his attorney contested this tax by letter of 10 November 1939, maintaining that, as a citizen of San Salvador, Leopold Liebes was not obligated to pay such a tax.

These records also include a letter from the Bank to Leo Liebes at an address in Hamburg, dated 24 October 1938, indicating that, as of 20 October 1938, he held a custody account, numbered 35069, which contained one type of gold bond, described as *4000, 6% Republic of Chile ext. sink. fd. gold bonds per 1 Febr. 1961 b/Bankers Tr.Co., New York*. According to Leopold Liebes's asset declaration, these bonds had a market value of approximately RM 2,000.00 as of

27 April 1938. The records contain no further information regarding the subsequent disposition of the account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's great-grandfather's name matches the published name of the Account Owner. The Claimant identified the Account Owner's cities of residence and the name of his spouse, which matches unpublished information about the Account Owner contained in the 1938 Census records. The CRT notes that the 1938 Census records submitted by the Account Owner indicate that he was born on 14 January 1868 in Kempen, and that the Claimant indicated that his great-grandfather was born on 15 January 1868, and submitted a document indicating that he was born in Kempen. The CRT further notes that the minor discrepancy regarding the exact date of birth does not undermine the plausibility of the identification, and that the consistency of the remaining information regarding the Account Owner's month, year, and place of birth further strengthens the Claimant's identification of the Account Owner.

In support of his claim, the Claimant submitted documents, including Léon Liebes's death certificate, indicating that he was originally from Kempen, Germany, that he was married to [REDACTED], and that he died in San Salvador, providing independent verification that the person who is claimed to be the Account Owner had the same name, the same spouse, and resided in the same cities recorded in the 1938 Census records as the name, spouse, and cities of residence of the Account Owner. The CRT notes that there are no other claims to this account.

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 he resided in Nazi Germany until his business was aryanized in the late 1930s, forcing him to flee to El Salvador. The CRT notes that the Account Owner declared his assets pursuant to the 1938 Census decree, and that he was assessed atonement tax.

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 and documents, demonstrating that the Account Owner was the Claimant's great-grandfather. These documents include a Last Will and Testament, signed by Leo Liebes on 12 July 1941, indicating that his son [REDACTED] was his heir; the marriage certificate of [REDACTED] and [REDACTED], identifying [REDACTED] as the son of Leopold Liebes; [REDACTED 2]'s birth certificate, indicating that she is the daughter of [REDACTED] and [REDACTED]; and his own birth certificate, indicating that the Claimant is the son of [REDACTED 2] and [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs, other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the account in the 1938 Census; that the Account Owner lived in Nazi Germany until he was forced to flee to El Salvador; and given the application of Presumptions (d) 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 his 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 the grandfather of [REDACTED 2], and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account. Further, the CRT notes that [REDACTED 2], as the Account Owner's granddaughter, has a better entitlement to the account than the Claimant, the Account Owner's great-grandson, and than [REDACTED 3], the Account Owner's daughter-in-law.

Amount of the Award

In this case, the Account Owner held one custody account. The 1938 Census records indicate that the value of the custody account as of 27 April 1938 was RM 2,000.00, which was equal to 3,510.00 Swiss Francs ("SF").¹ According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. 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 162,500.00.

Division of the Award

According to Article 23(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. In this case, the Claimant is representing his mother, [REDACTED 2], who is the Account Owner's granddaughter. Accordingly, [REDACTED 2] is

¹ The CRT uses official exchange rates when converting the amounts in foreign currencies into Swiss Francs.

entitled to the entire award amount, and neither the Claimant nor [REDACTED 3] is entitled to any portion 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 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
29 March 2006