

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Lucien Leites  
also acting on behalf of Rosa Szabo and Gyorgy Szabo

## **in re Accounts of Emil Löbl**

Claim Number: 501752/CU/TC

Award Amount: 327,275.00 Swiss Francs

This Certified Award is based upon the claim of Lucien Leites (the “Claimant”) to the published account of Emil Löbl (the “Account Owner”) at 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 identifying the Account Owner as his great-grandfather, Emil Löbl, who was born on 5 February 1863 in Vienna, Austria, and was married to Gisela Löbl, née Basseches, on 8 April 1894 in Vienna. The Claimant indicated that his great-grandparents, who were Jewish, resided at Falkestrasse 1 in Vienna until 1938, and afterwards at Anastasius-Grün-Gasse 37, also in Vienna. The Claimant indicated that his great-grandfather worked from 1909 to 1917 as a *Chefredakteur* (Editor-in-chief) for the newspaper “*Wiener Zeitung*” and afterwards, in the same capacity, for the “*Neues Wiener Tagblatt*,” from where he was dismissed without notice on 29 April 1938.

The Claimant also indicated that his great-grandparents had one daughter, his maternal grandmother, Rosalie Elvira Szabo, née Löbl, who was born on 11 February 1895 in Vienna, and was married to Cornel Szabo. The Claimant indicated that his grandmother was divorced in the 1930s and lived at her parents’ house at Falkestrasse 1, together with her children, Rosa (the Claimant’s mother) and Gyorgy Szabo. The Claimant further indicated that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), the Gestapo raided and plundered his great-grandparents’ home, arrested his great-grandfather, his great-grandmother, and his grandmother, and sealed the apartment, except for one room. According to a statement written by the Claimant’s grandmother regarding her and her family’s persecution, the Claimant’s grandmother’s children (the Claimant’s mother and uncle) were on a walk at the time the rest of the family was arrested; in the following days they were sent to live with their father, who was not Jewish, in Budapest, and arrived in Hungary suffering from severe shock.

According to the Claimant, his relatives were released after three weeks and allowed to return to their home, where they were forced to live in the one unsealed room until they were eventually ordered from the premises, after which they moved frequently, being allowed to stay only a few weeks at each new address. The Claimant indicated that his grandmother was again arrested, after which she fled to Budapest, Hungary, where her two children were living with their father. According to information provided by the Claimant, his great-grandmother was deported on 13 August 1942 to Theresienstadt, and later to Auschwitz, where she perished, and his great-grandfather, who was on his deathbed at the time of her deportation, died on 26 August 1942 in Vienna.

According to the statement by the Claimant's grandmother, she was able to bring some of her family's furniture and jewelry with her to Hungary, with which she was able to support herself and her children, at least until the Arrow Cross seized power.<sup>1</sup> She stated that her children, who were considered of "mixed race" (*Mischlinge*), were less threatened than she was, so she left their shared residence and moved to a "Yellow Star House," which, as she wrote, was supposedly designed to protect Jews, but in reality served to prepare them better for deportation. The Claimant's grandmother wrote that in 1943 she met the man who would later become her husband, Paul Barnay, who formerly was a theater director in Breslau and later (from 1948 to 1953) Director of the People's Theater of Vienna (*Volkstheaterdirektor in Wien*), and who at that time also lived as an immigrant in Budapest. She wrote that they lived with friends – Dr. Kovats and his wife – at Waciu. Iib in a Yellow Star House until German troops marched into Budapest. After that, she wrote, they moved from neighborhood to neighborhood. According to this statement, after Horthy was removed from power, her children demanded that she go into hiding. The Claimant's grandmother wrote that she left the apartment at Waciu. Iib and spent every night elsewhere, sometimes on park benches. She posed occasionally as a maid, and, after a few weeks, she reunited with Dr. Kovats and his wife and they moved into an abandoned apartment. At that time, the Russians were already nearing Budapest. The Claimant's grandmother wrote that Paul Barnay did not want to go into hiding and was sent to the front lines as punishment for shirking work, despite his age of 60, and was saved by a young S.S. officer in a fantastic and adventurous manner (*"wurde als Schanzarbeiter trotz seiner 60 Jahre in die vordersten Kampfreiheiten geschickt und auf phantastische und abenteuerliche Weise von einem jungen S. S. Offizier gerettet"*). In her statement, the Claimant's grandmother wrote that her son was with her and the Kovats couple in the abandoned apartment, for, as he believed, her protection, while her daughter remained with her father. The Claimant's grandmother wrote that one day persons from the Arrow Cross came – they had already taken her ex-husband and her daughter – and took her, her son, and the Kovats couple to an Arrow Cross house, where they were imprisoned in the cellar. Unfortunately, the Claimant's grandmother's statement ends there. It is not clear how the Claimant's grandmother, his mother, or his uncle survived their imprisonment by the Arrow Cross.

In support of his claim, the Claimant submitted copies of documents, including: (1) his great-grandfather's birth certificate, issued by the Jewish Community of Vienna, indicating that Emil Löbl was born on 6 February 1863 in Vienna, and that his parents were Isak Löbl and Rosalia

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<sup>1</sup> The Arrow Cross Party (Nyilaskeresztes Párt – Hungarista Mozgalom, literally "Arrow Cross Party-Hungarianist Movement") was a pro-German anti-Semitic national socialist party led by Ferenc Szálasi which ruled Hungary from 15 October 1944 until January 1945. See <http://www.ushmm.org/wlc/article.php?lang=en&ModuleId=10005458>.

Löbl, née Neumann; (2) his great-grandparents marriage certificate, issued by the Jewish Community of Vienna, indicating that Dr. jur. Emil Löbl and Gisela Basseches were married on 8 April 1894, and that Emil Löbl resided at Grüne Thorgasse 28; (3) certificates indicating that the Royal and Imperial Court had bestowed the title of “Government Councilor” (“*Regierungsrat*”, an honorary title) on Emil Löbl on 23 March 1900 and that he was raised to “Court Councilor” (“*Hofrat*”) on 8 December 1911; (4) a letter, dated on 29 April 1938, indicating that *Hofrat* Dr. Emil Löbl, residing at Falkestrasse 1 in Vienna, was dismissed from his position as editor-in-chief of the “*Neues Wiener Tagblatt*”; (5) a certificate from the Vienna Federal Police, dated 28 January 1953, indicating that Gisela Löbl, née Basseches, was deported to Theresienstadt on 13 August 1942; (5) a statement from the Claimant’s mother, describing the family’s fate during World War II; (6) his great-grandfather’s will, indicating that Emil Löbl bequeathed his entire estate to his grandchildren, Gyorgy and Rosa Szabo.

The Claimant also submitted excerpts from a book entitled “*Klassiker der Kommunikationswissenschaft*,” (“Classics of the Science of Communication”), written by Michael Meyen and Maria Löblich, that include a chapter about his great-grandfather, Emil Löbl and his seminal work “*Kultur und Presse*” (“Culture and the Press”), which was published in 1903.

The Claimant indicated that he was born on 23 May 1950 in Zurich, Switzerland. The Claimant is representing his mother, Rosa Szabo, who was born on 25 May 1925 in Budapest, and his uncle, Gyorgy Szabo, who was born on 14 June 1926 in Budapest.

### **Information Available in the Bank’s Record**

The Bank’s record consists of a customer card. According to this record, the Account Owner was Dr. Emil Löbl, who resided in Vienna, Austria. The Bank’s record indicate that the Account Owner held one custody account, numbered L 43963, opened on 31 June 1931, and one demand deposit account, opened on 20 August 1931, both of which were closed on 31 December 1938.

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”) determined that the amount in the accounts had been paid to the Nazi authorities. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the account and received the proceeds themselves.

### **Information Available from the Austrian State 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, including Austria, 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 Austrian State Archive, there are documents concerning the assets of Dr. Emil Löbl, numbered 20417. These records indicate that Dr. Emil Löbl, who held the title of *Hofrat*, retired, was born on 5 February 1863 and was married to Gisela Löbl, née Basseches. These records further indicate

that he was a *Chefredakteur* (Editor-in-chief), that he was suspended on 15 March 1938 and dismissed without notice as of 1 May 1938, and that he resided at Falkestrasse 1 in Vienna, Austria. The records further include a flight tax assessment and security order (*Reichsfluchtsteuer* and *Sicherheitsbescheid*), dated 21 September 1939, in the amount of 16,900.00 Reichsmark (“RM”) on total assets of RM 67,443.00 as of 1 January 1938, which was reduced in a further order, dated 13 June 1941, to RM 8,400.00 on total assets of RM 33,420.00.

Dr. Emil Löbl’s asset declaration also includes a listing of securities and their market valuations provided by the Bank on 28 June 1938 as follows:

- 4% *belg. unifiz. Anleihe 1935 I. Series* bonds with a nominal value of 3,000.00 Belgian Francs (“BF”) and a market value of Swiss francs (“SF”) 406.00;
- 2-1/2% *Brit. Consols* bonds with a nominal value of 300.00 Pound Sterling (“£”) and a market value of SF 4,813.00;
- 4% *franz. Rte 1918* bonds with a nominal value of 940.00 French gold francs (“FF”) and a market value of SF 2,237.00;
- 4-1/2% *franz. Rte 1932 Tranche B* bonds with a nominal value of 675.00 French gold francs and a market value of SF 1,514.00;
- 5% *öst. Konv.-Anl. Österr. Tranche* bonds with a nominal value of 1,200.00 Schilling (“ATS”) in *Sperr Schilling*<sup>2</sup> yielding, at an estimated exchange rate of SF 0.14, a market value of SF 168.00;
- 5-1/2% *ung. Amort. Staatsrente von 1916 Fünfte Kriegsanl.* („*pro memoria*“) bonds with a nominal value of 10,000.00 Austrian-Hungarian Kronen (“Kr”) and considered without value;
- 100 shares of *Donau-Save-Adria-prior.* with a market value of SF 1,850.00;
- 50 shares of 6% *Vorz.- Aktien Ser. A Soc. nat. des chemins de fer belges Schweizer Tr.*, each with a nominal value of BF 500.00 and a market value of SF 4,248.00;
- 90 shares of 4% *Vorz.- Aktien Ser. A Soc. nat. des chemins de fer belges Belgian Tr.*, each with a nominal value of BF 500.00 and a market value of SF 6,052.00;
- 200 shares of *Trifailer Kohleakt.* with a market value of SF 2,754.00.

In a letter to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt.”), dated 10 December 1938, relating to assets held as of 12 November 1938 for purposes of assessing atonement tax (*Sühneabgabe*), Emil Löbl stated that his foreign held securities were sold as ordered by the authorities and as confirmed by the Main Office of the Reichsbank, Vienna (*Reichsbankhauptstelle Wien*) on 17 August 1938 with the foreign proceeds transferred to the *Golddiskontbank* Berlin and the RM countervalue credited to him. That same letter indicates that he had paid the first tranche of the atonement tax.

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<sup>2</sup> For definition and rates, see League of Nations, Exchange Rates, Table 120, pp. 225, 229; Mathias Zurlinden, *Gold Standard, Deflation and Depression: The Swiss Economy during the Great Depression*, in Swiss National Bank Quarterly Bulletin 2 (2003).

The records further indicate that Dr. Emil Löbl held an account of unknown type at the Bank with a balance of SF 547.95 as of 28 June 1938. The CRT concludes that this is the same account as the demand deposit account identified in the Bank's records.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant identified the Account Owner's name and country of residence, which match published information about the Account Owner contained in the Bank's record. The Claimant further identified the Account Owner's street address and profession, which match unpublished information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted documents, including his great-grandfather's birth certificate, marriage certificate, and will, providing independent verification that the Claimant's great-grandfather had the same name and resided at the same address as recorded in the Bank's documents.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of 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 his great-grandfather, who was Jewish, lived in Austria after the *Anschluss*, that he was dismissed without notice from his position as chief-editor with the "*Neues Wiener Tagblatt*," and that his wife, the Claimant's great-grandmother, was deported to Theresienstadt and later perished in Auschwitz. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census.

### 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 his great-grandfather's will, indicating that Emil Löbl had a daughter named Rosalie Löbl and two grandchildren, Rosa and Gyorgy Szabo, and indicating that he bequeathed his entire estate to those grandchildren. 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 Bank's records indicate that the custody account and the demand deposit account were closed on 31 December 1938. Given that the Account Owner resided in Nazi-controlled Austria; that he was forced to register his assets with the Nazi authorities; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would

not have been able to obtain information about his accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information on 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 Governing the Claims Resolution process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the accounts 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 represented party Rosa Szabo and represented party Gyorgy Szabo. 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-grandfather, 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 represented party Rosa Szabo and represented party Gyorgy Szabo, as the Account Owner's grandchildren, have a better entitlement to the accounts than the Claimant, the Account Owner's great-grandson.

#### Amount of the Award

In this case, the Account Owner held one custody account, numbered L 43963, and one demand deposit account. The Bank's record and the Account Owner's 1938 Census declaration contain information about the specific securities. According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. The market value of bonds shall be awarded if that value was above the nominal value on the date the account owner is deemed to have lost control over the account. Stocks are valued at market value.

The Austrian and Hungarian bonds were in default.<sup>3</sup> Further, the British Consols and the French 'Rente' are perpetual emissions, designed not to be redeemed at a fixed end-date and, therefore,

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<sup>3</sup> Moody's Manual of Investments, American and Foreign: Government Securities, Moody's Investors Service, New York, 1940, pp. 1853, 1872.

always valued at their market value.<sup>4</sup> Thus, the securities listed in Account Owner Löbl's 1938 Census declaration shall be valued as follows:<sup>5</sup>

- 4% *belg. unifiz. Anleihe 1935 I. Series* bonds with a nominal value of BF 3,000.00, and a declared market value of SF 406.00;
- 2-1/2% *Brit. Consols* bonds with a nominal value of £ 300.00, and a declared market value of SF 4,813.00;
- 4% *franz. Rte 1918* bonds with a nominal value of 940.00 French gold francs, and a declared market value of SF 2,237.00;
- 4-1/2% *franz. Rte 1932 Tranche B* bonds with a nominal value of 675.00 French gold francs, and a declared market value of SF 1,514.00;
- 5% *öst. Konv.-Anl. Österr. Tranche* bonds with a nominal value of ATS 1,200.00, and a declared market value of SF 168.00;
- 5-1/2% *ung. Amort. Staatsrente von 1916 Fünfte Kriegsanl. („pro memoria“)* bonds with nominal value of Kr. 10,000.00, which were, according to the Account Owner's 1938 Census declaration, worthless;
- 100 shares of *Donau-Save-Adria-prior.* with a declared market value of SF 1,850.00;
- 50 shares of 8% *Vorz.- Aktien Ser. A soc. Nat. des chemins de fer berges Schweizer Tr.*, with a nominal value of BF 500.00 each and a declared market value of SF 4,248.00;
- 90 shares of 4% *Vorz.- Aktien Ser. A soc. Nat. des chemins de fer berges Belgian Tr.*, with a nominal value of BF 500.00 each and a declared market value of SF 6,052.00;
- 200 shares of *Trifailer Kohleakt.* with a market value of SF 2,754.00.

Therefore, the combined historic value of the securities in the Account Owner's custody account was SF 24,042.00. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 300,525.00 for this account.

With regard to the demand deposit account at the Bank, according to the Account Owner's 1938 Census declaration, the amount in the account as of the date of the declaration was SF 547.95. The CRT determines that it is unable to rely on this balance amount as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all of his assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in a demand deposit account is 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. In

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<sup>4</sup> *Id.*, at 1609, 1807-8. See generally Stephen A. Ross, Randolph W. Westerfield and Bradford D. Jordan, *Essentials of Corporate Finance*, McGraw-Hill Irwin, New York, 3<sup>rd</sup> ed., 2001, p. 125, stating that perpetuities, also called consols, are a special case of security since their cash flows continue forever.

<sup>5</sup> The CRT has used the SF market values provided by the Bank to the Account Owner for inclusion in his 1938 Census declaration.

this case, the CRT does not find that the value of the account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's demand deposit 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 of SF 26,750.00 for this account.

Consequently, the total award amount in this case is SF 327,275.00.

#### Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. According to the Account Owner's will, Emil Löbl bequeathed his entire estate to his grandchildren, Gyorgy Szabo and Rosa Szabo. Accordingly, Gyorgy and Rosa Szabo are each entitled to one-half of the total award amount. As noted above, the Claimant is not entitled to share in the award.

#### **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  
15 November 2007