

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Erich Loewe

Claim Number: 204911/MW¹

Award Amount: 204,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Erich Loewe (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 identifying the Account Owner as her maternal grandfather, Dr. Erich Loewe, who was born on 23 September 1889 in Breslau, Germany, and was married to [REDACTED], née [REDACTED], on 24 December 1931 in Leipzig, Germany. The Claimant indicated that her grandparents had one daughter, [REDACTED], née [REDACTED], who was the Claimant’s mother. The Claimant stated that her grandfather studied law in Berlin, Germany, where he later operated a law firm. The Claimant explained that her grandfather anticipated Nazi policies with regard to Jewish assets, and likely transferred his assets from Germany to Switzerland. The Claimant further explained that her grandfather lived in Berlin until the beginning of 1933, and then fled from Germany to France after the Nazis seized power. The Claimant indicated that her grandfather died in Paris on 4 August 1981. In a telephone conversation with the CRT on 16 October 2002, the Claimant indicated that she is not representing her brother, [REDACTED], and will divide the proceeds of an award. The Claimant submitted Erich Loewe’s official family book, issued in Berlin, Germany, indicating that Erich Loewe was an attorney, that he resided in Berlin-Charlottenburg, that he had a child named [REDACTED] who was born on 18 April 1933 in Paris XVI, and that he died on 4 August 1981 in Neuilly sur Seine, France; and [REDACTED]’s official family book indicating that her father was Erich Loewe, and that her children are [REDACTED] and the Claimant. The

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 204910. The CRT will treat the claim to this account in a separate decision.

Claimant indicated that she was born on 31 August 1962 in New York, New York, the United States.

Information Available in the Bank's Records

The Bank's records consist of a customer card, bank statements, and printouts from the Bank's database. According to these records, the Account Owner was Dr. Erich Loewe, who resided at Helmstedterstrasse 26 in Berlin-Wilmersdorf, Germany. The Bank's records indicate that the Account Owner held a safe deposit box, numbered 489; a custody account, numbered L44489; and a demand deposit account. The Bank's records further indicate that these accounts were closed on 13 May 1933, 17 May 1933, and 20 May 1933, respectively. The amounts in these accounts on the dates of their closure are unknown.

The Bank's records also indicate that the account Owner held two additional demand deposit accounts. The Bank's records do not show when the demand deposit accounts were opened. According to the bank's records, one of the demand deposit accounts was frozen in the 1945 freeze of assets held in Switzerland by citizens of Germany and territories incorporated into the Third Reich (the "1945 Freeze"). The Bank's records indicate that the account balance in 1954 was 444.00 Swiss Francs ("SF"). The Bank's records do not show if or by whom the account was closed. The second demand deposit account, numbered 356722, was closed on 30 January 1976. The Bank's records do not show who closed this account. The amount in the account on the date of its closure is unknown.² The CRT notes that these accounts were awarded to the Claimant in an Award approved by the Court on 2 January 2003.

There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather's name and city of residence match the published name and city of residence of the Account Owner. The Claimant identified her grandfather held the title of Doctor, which matches unpublished information contained in the Bank's records. In support of her claim, the Claimant submitted documents, including Erich Loewe's official family book, issued in Berlin, Germany, indicating that Erich Loewe was an attorney, and that he resided in Berlin-Charlottenburg. This document provides independent verification that the person who is claimed to be the Account Owner had the same

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution ("the ICEP List"), Erich Loewe is indicated as the owner of three accounts. On 2 January 2003, the Court approved an award to the Claimant for accounts belonging to Erich Loewe. See *In re Accounts of Erich Loewe* (the "January 2003 Award"). In the January 2003 Award, the CRT concluded, after careful review, that the Bank's records indicate that Erich Loewe in fact owned five accounts, two of which were awarded to the Claimant in that decision. This Award addresses the remaining three accounts.

name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner. The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different profession which was inconsistent with information about the Account Owner in the Bank's records.

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 escaped from Nazi Germany to France in 1933.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's maternal grandfather. These documents include Erich Loewe's official family book indicating that Erich Loewe had a child named [REDACTED] who was born on 18 April 1933 in Paris XVI; and [REDACTED]'s official family book indicating that her father was Erich Loewe and that the Claimant is her daughter. There is no information to indicate that the Account Owner has surviving heirs other than the Claimant's brother. As indicated above, the Claimant indicated in her conversation with the CRT on 16 October 2002 that she has a brother, [REDACTED], who has not submitted a claim and whom the Claimant does not represent, but with whom she has indicated she will share the proceeds of any award.

The Issue of Who Received the Proceeds

With regard to the demand deposit account included in the 1945 Freeze and the demand deposit account closed on 30 January 1976, the CRT notes that the Claimant was awarded these accounts in the a previous Award, which was approved by the Court on 2 January 2003.

With regard to the Account Owner's safe deposit box, custody account, and remaining demand deposit account, the Bank's records indicate that the accounts were all closed between 13 May 1933 and 20 May 1933, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the accounts were closed; that the Account Owner fled Germany due to Nazi persecution; that the Account Owner may have had relatives remaining in Germany and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety; 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, even for the stated purpose of obtaining indemnification from the German authorities, 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 (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 proceeds of the accounts 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 her maternal 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 accounts.

Amount of the Award

In this case, the Award is for one demand deposit account, one custody account, and one safe deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was SF 13,000.00, the average value of a demand deposit account was SF 2,140.00, and the average value of a safe deposit account was SF 1,240.00. Thus, the total 1945 average value of the accounts at issue is SF 16,380.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 204,750.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
12 January 2005