

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Walter Friedrich

in re Account of Heinrich Löwinger

Claim Number: 501548/SB/AK

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Heinrich Löwinger (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 his maternal grandfather, Heinrich (Henry) Löwinger, who was born on 26 March 1887 in Vienna, Austria, and was married to [REDACTED] in April 1916. The Claimant stated that his grandfather, who was Jewish, was a businessman who resided in Vienna with his wife and three children, [REDACTED], [REDACTED] and [REDACTED] (the Claimant’s mother). The Claimant further stated that his grandfather was imprisoned by the Nazis in Vienna from March 1938 to August 1939, and that, upon his release, the family fled to Switzerland and subsequently emigrated to the United States. The Claimant stated that his grandfather died in 1960. The Claimant submitted his grandfather’s last will and testament, dated 24 June 1960, which states that his wife was [REDACTED] and that he bequeathed all his European assets to his grandchild, [REDACTED]. The Claimant also submitted an extract of the declaration, dated 28 July 1938, submitted to the 1938 Census of Jewish-owned assets by his grandfather, which shows that Heinrich Löwinger, who was born 26 March 1887, resided at Püttlingengasse 3, Vienna, and that his spouse was [REDACTED]. This declaration is more fully described below.

The Claimant stated that he was born on 21 March 1952 in Washington, D.C., the United States.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Heinrich Löwinger, who resided in Vienna, Austria. The Bank's records indicate that the Account Owner held one custody account, numbered 19940. The Bank's record also indicates that the custody account was opened on 1 December 1936 and closed on 10 January 1940. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that either 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 (Archive of the Republic, Finance), there are documents concerning the assets of Heinrich Löwinger, numbered 33636 and of [REDACTED], numbered 18547. The file contains, in addition to the asset declarations submitted by Heinrich and [REDACTED] Löwinger, a considerable amount of correspondence, especially between the office responsible for the aryanization of Jewish property, the *Vermögensverkehrsstelle* ("VVst"), and the Main Office of the *Reichsbank* in Vienna. According to his asset declaration, Heinrich Löwinger, an industrialist, was born on 26 March 1887, was married to [REDACTED], and resided at Püttlingengasse 3 in Vienna. According to his declaration, Heinrich Löwinger owned assets totaling 3,437,694.00 Reichsmark ("RM"). His main holdings consisted of interests in enterprises in Austria and Switzerland, as well as real estate and insurance policies.

The correspondence between the VVst and the *Reichsbank* Office, which is dated between 7 and 22 August 1939, indicates that immediately following the *Anschluss*,¹ in fact explicitly because of this change ("*durch den Umsturz*"), Nazi authorities reopened past fraud allegations against Heinrich Löwinger. Based upon these allegations, Heinrich Löwinger was taken into custody on 16 March 1938 and subsequently sentenced to three years' imprisonment. By the date of this correspondence, Heinrich Löwinger had suffered a stroke and was in prison. The correspondence was triggered by the *Reichsbank's* interest in negotiations that had taken place at the time of Heinrich Löwinger's arrest between the VVst and a Swiss investment group which sought to obtain Heinrich Löwinger's release. According to the correspondence, in return for Heinrich Löwinger's release, the Swiss group offered to cede their interests in assets located in Austria, estimated at RM 3 million, together with an additional 100,000.00 Swiss Francs ("SF") in cash. For his part, Heinrich Löwinger was to cede his private assets, estimated at RM 300,000.00 to the VVst and the *Kontrollbank*, which was the aryanization institution's financial entity. Additional correspondence in [REDACTED]'s file indicates that the deal was also to include the release of jewelry she owned and that, pending the final outcome of the negotiations, the authorities' order for the sale of this jewelry had been postponed until September 1939. The

¹ The correspondence uses the term "*Umbruch*," meaning radical change, for the period between 12 March 1938 and the referendum in early April which confirmed the "*Anschluss*." Most observers speak of the "*Anschluss*" as starting March 12, 1938.

correspondence indicates that by August 1939 the deal still had not been completed. Nothing further is recorded regarding Heinrich Löwinger's fate.

The records further include a notification from the flight tax authorities, dated 25 November 1939, in which they estimated the Löwinger family's assets to have amounted to RM 3,437,694.00, on which "flight tax" (*Reichsfluchtsteuer*) of RM 859,425.00 was being assessed. Finally, Heinrich Löwinger's asset declaration also indicates that, in addition to his interests in a laundry enterprise in Austria, he owned 40 percent of *Höngg Kragenwäscherei*, Zurich, and 45 percent of *Gesellschaft für Wäschereibedarf*, Basel. However, these records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's name and city and country of residence match the published name and city and country of residence of the Account Owner. In support of his claim, the Claimant submitted documents, including his grandfather's last will and testament and an extract of Heinrich Löwinger's 1938 Census declaration, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

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. Taking all 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, was imprisoned by the Nazis, and that he was forced to turn over his assets before fleeing the Reich.

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 grandfather. These documents include his grandfather's last will and testament, which indicates that the Claimant's grandfather bequeathed all his European assets to his grandchild, [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the account was closed on 10 January 1940, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-occupied territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that there is ample evidence that he could not have left Nazi-controlled Austria without surrendering his own assets, in addition to his Swiss associates ceding their financial interests within Austria, augmented by a cash payment in Swiss francs, to the Nazi authorities, that the Account Owner and his heirs would not have been able to obtain information about his account 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 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 his 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.

Amount of the Award

In this case, the Account Owner held one custody 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 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 162,500.00.

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 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
12 May 2005