

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of B. L. Mencinskiene

Claim Numbers: 400930/NB

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of B. L. Mencinskiene (the “Account Owner”) at the Arosa 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 mother’s first husband’s sister, Batya Mencinski (Mencinskie), née Feldman, who was born in approximately 1892 in Kowno, (Kaunas) Lithuania, and was married to [REDACTED]. The Claimant indicated that Batya Mencinski’s brother was the Claimant’s mother’s first husband, [REDACTED], who died in 1939. According to the Claimant, her mother’s sister-in-law, who was Jewish, had one child, [REDACTED], and the family resided in Kaunas during the Second World War. The Claimant finally indicated that all the members of the Mencinski family, including Batya Mencinski, as well as the members of the Feldman family, were murdered during the Nazi occupation of Lithuania.

The Claimant indicated that she was born on 25 May 1944 in the Soviet Union.

Information Available in the Bank’s Record

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 B.L. Mencinskiene during their investigation of the Bank. The documents evidencing an account

belonging to B.L. Mencinskiene were obtained from archival sources in the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the “1962 Survey”). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of B. L. Mencinskiene, numbered 766.

These records indicate that the Account Owner was *Mme.* (Mrs.) B. L. Mencinskiene, who held a demand deposit account, which held a balance of 914.00 Swiss Francs (“SF”) as of 1 September 1963.

Furthermore, according to the records from the Swiss Federal Archive, the Account Owner’s assets were reported to the Registration Office for Assets of Missing Foreigners (the “Registration Office”) (*Meldestelle für Vermögen verschwundener Ausländer*). In January 1966, the Guardianship Authority of the district of Chur (*Vormundschaftsbehörde des Kreises Chur*) appointed Johann Erni as the custodian of this account, as prescribed by the 1962 Federal Decree.

The records from the Swiss Federal Archive also indicate that the Bank’s last contact with the Account Owner was in 1938. These records do not contain any information about the disposition of this account. There is no evidence in the records from the Swiss Federal Archive that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s mother’s sister-in-law’s name matches the published name of the Account Owner.¹ The CRT notes that the Claimant also identified the Account Owner’s gender, which matches unpublished information about the Account Owner as recorded in the records of the Swiss Federal Archive. The CRT further notes that the records from the Swiss Federal Archive do not contain any specific information about the Account Owner other than her name and gender.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Batja (Batia) Menciski, née Feldman, and indicates that her date of birth was 1892, that her place of birth was Kaunas, Lithuania, that she was married to

¹ The CRT notes that the name Mencinskiene is the feminine Lithuanian equivalent of the name Mencinskis.

[REDACTED], that she had a son by the name of [REDACTED], and that she perished in 1942 in Kaunas, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different gender than the gender 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 the Account Owner was Jewish, and that she was murdered in 1942, following the Nazi occupation of Lithuania.

As noted above, a person named Batja Menciski was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's mother's sister-in-law.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate that the Bank did not have any contact with the Account Owner after 1938, and that the account was still open in January 1966. Given that the Account Owner perished in 1942; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the account was included in the 1962 Survey; that the Account Owner and her heirs would not have been able to obtain information about her account after the Second World War from the Bank 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 Presumption (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 her 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 mother's sister-in-law, and

that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The records of the Swiss Federal Archive indicate that the value of the demand deposit account as of 1 September 1963 was SF 914.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 1,199.00. According to Article 29 of the Rules, if the amount in a demand deposit account was 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. 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 26,750.00.

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
18 December 2008