

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of [REDACTED]¹
represented by [REDACTED] and [REDACTED]

in re Account of Saly Persitz

Claim Number: 220524/MBC²

Award Amount: 79,781.38 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Paul Levy.³ This Award is to the unpublished account of Saly Persitz (the “Account Owner”) at the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at 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 father, Saly Scholom Persitz, who was born on 19 April 1890 in Mohilev, Russia (now Mogilev, Belarus), and who was married to [REDACTED], who was born on 17 January 1897 in Loerrach, Germany. According to information provided by the Claimant, she and her parents, who were Jewish, were Swiss citizens, and before the Second World War, they resided in Neuilly-sur-Seine near Paris, France. The Claimant indicated that when France was invaded, she and her parents fled to various cities in France to avoid Nazi persecution, before finally emigrating to the United States in 1940, because they were unable to cross German lines to return to Switzerland. The Claimant indicated that her father died in 1949, leaving his estate to her mother, who died in 1981.

¹ In a telephone conversation with the CRT on 15 June 2006, [REDACTED], the daughter and representative of Claimant [REDACTED] (“the Claimant”) stated that the Claimant had passed away.

² The Claimant submitted an additional claim, which is registered under the Claim Number 300165. The CRT will treat this claim in a separate determination.

³ The CRT will treat the claim to this account in a separate determination.

The Claimant submitted documents in support of her claim, including copies of: (1) a certificate issued by the city of Zurich, Switzerland, dated 6 March 1939, indicating that Mr. S. Persitz moved from Zurich to Paris, France; (2) a lease for a house located at 15 Rue de Longpont, Neuilly-sur-Seine, France, beginning 1 April 1939, indicating that Scholom Persitz lived there beginning in 1939; (3) reports filed by [REDACTED] and Scholom Persitz on their property in foreign countries, which, according to the Claimant, were filed with the Federal Reserve Bank in 1943, indicating that they held Swiss citizenship when they entered the United States on 4 December 1940 and that they had personal belongings at 15 Rue de Longpont in Neuilly-sur-Seine/Paris; (4) her own marriage certificate, indicating that her maiden name was Persitz; and (5) a questionnaire, dated 28 July 2001, regarding compensation for personal belongings in France, indicating that [REDACTED] and her parents, Scholom Saly Persitz and [REDACTED] fled France during the Second World War.

The Claimant indicated that she was born on 26 September 1920 in Zurich.

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 Saly Persitz, a French national, who resided in Paris, France. The Bank's record further indicates that the Account Owner held a demand deposit account and that the balance of the account was 1,480.86 United States Dollars ("US \$") as of 14 June 1941, when it was frozen.⁴

The Bank's record does not contain any information regarding the disposition of the account.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,⁵ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less or of unknown value and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution. The account awarded is part of a group of accounts identified in the TAD.

⁴ During the Second World War, the United States government froze certain foreign assets located in the United States, under the powers of the Trading with the Enemy Act of 1917 (50 U.S.C. App.). On 14 June 1941, President Roosevelt extended freezing controls to cover all of continental Europe (the "1941 Freeze"). Executive Order 8785 Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of All Foreign-Owned Property, and Related Matters (6 Fed. Reg. 2897). See Plunder & Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report, SR-44 (United States Government Printing Office, 2000), available at http://www.pcha.gov/PlunderRestitution.html/html/Home_Content.html.

⁵ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and country of residence match the unpublished name and country of residence of the Account Owner contained in the Bank's record. The CRT notes that the Claimant indicated that her father resided in Neuilly-sur-Seine, a small city located only seven kilometers from Paris, the Account Owner's city of residence.

In support of her claim, the Claimant submitted documents, including copies of (1) a certificate issued by the city of Zurich; (2) a lease for a house located at 15 Rue de Longpont in Neuilly-sur-Seine; (3) reports by [REDACTED] and Scholom Persitz on their property in foreign countries; and (4) a questionnaire regarding compensation for personal belongings in France, providing independent verification that the Claimant's father had the same name and resided near the city recorded in the Bank's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Saly Persitz, which matches the name 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 Claimant's father used his first name on the lease and property report submitted by the Claimant, whereas the Account Owner's name matches the Claimant's father's middle name. The CRT concludes that it is plausible the Claimant's father used his middle name when opening a bank account, and concludes that this discrepancy is not material to the Claimant's identification of the Account Owner.

The CRT further notes that the Bank's record indicated that the Account Owner was French, whereas the Claimant indicated that her parents were Swiss. The CRT notes that, in this case, given the consistency between the remaining information regarding the Claimant's father and the Account Owner, it is plausible that the record erroneously listed the Account Owner's citizenship as French. The CRT concludes that this discrepancy does not materially affect the Claimant's identification of the Account Owner.

The CRT notes that there are no other claims to this account. Taking all of 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. In a telephone conversation with the CRT on 15 June 2006, the Claimant's daughter stated that the Account Owner's family was Jewish, that they resided in Nazi-occupied France, and that fled to the United States to avoid Nazi persecution. As noted above, a person named Saly Persitz 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 Saly Persitz was her father. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that the Claimant submitted copies of property reports filed by [REDACTED] and Scholom Persitz. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. The CRT notes that the Claimant submitted a copy of her own marriage certificate, indicating that her maiden name was Persitz. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The CRT notes that the Account Owner's account was frozen in the 1941 Freeze. The CRT notes that the Account Owner emigrated to the United States in 1940. The CRT further notes that the Bank's record does not indicate when the account was closed, there is no record of the account being released to the Account Owner, and no evidence that the account was closed to any other authorized party.

The CRT notes that although persecutees who had arrived in the United States by 23 February 1942 could, under the provisions of the US Treasury's general licensing system, access their accounts, there is no documentation on the extent to which eligible persons availed themselves of these provisions.⁶ Furthermore, there is no indication in the Bank's records of such a release of funds.

Absent evidence in the Bank's records and, in this case, in the official records of the State of New York, and given the facts above, and given that this account was frozen under the 1941 Freeze; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; 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

⁶ With regard to assets frozen under the Trading with the Enemy Act, according to the Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report (December 2000) ("PCHA Report"), no exceptions nor distinctions were made for assets belonging to Holocaust victims. PCHA Report, at 11-12. Furthermore, many Holocaust victims did not recover their frozen assets or the full value of their assets. *Id.* The PCHA Report can be found at <http://www.pcha.gov>. However, bona fide refugees and immigrants were enabled to access their accounts first under GL 42 and GL 42A, which covered persons who had entered the United States by 17 June 1941, and, beginning on 23 February 1942, under GL42 as amended, which covered those persons who had arrived in the United States on or before that date. For a full history of GL42 and 42A, see U.S. Treasury Department, *Documents Pertaining to Foreign Funds Control*, August 16, 1941, General License 42, p. 31; (amended February 23, 1942), *Id.*, March 30, 1942, p. 33.

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 Governing the Claims Resolution Process (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owner was her father, 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 account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank’s record indicates that the value of the account as of 14 June 1941 was US \$1,480.86, which was equivalent to 6,382.51 Swiss Francs (“SF”).⁷ 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. Consequently, the total award amount in this case is SF 79,781.38.

Scope of the Award

The heirs to the estate of 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 they 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
24 September 2008

⁷ The CRT uses official exchange rates to convert amounts in foreign currencies into Swiss Francs.