

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Account of Ellen Stern Levis

Claim Number: 210965/MG

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Ellen Stern Levis, (the “Account Owner”) at the Basel 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 mother, Ellen Lise Stern, née Levis, who was born on 25 October 1909 in Karlsruhe, Germany, to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant stated that his mother was married to [REDACTED] on 11 July 1929 in Karlsruhe and that his parents had two children: [REDACTED 1], the Claimant, and [REDACTED 2], the Claimant’s brother, whom he is representing in these proceedings. The Claimant further stated that his mother, who was Jewish, resided at Wendstrasse 5 in Karlsruhe until 1938, when she fled from Nazi Germany to Portugal with her family, via Switzerland. According to the Claimant, his family had previously vacationed in Switzerland and his father had conducted business and had relatives in Basel, Switzerland. The Claimant indicated his family remained in Portugal until 1941, when they immigrated to the United States. The Claimant further indicated that when he and his brother immigrated to the United States, they wanted to have American-sounding names, and changed their names to [REDACTED 1] and [REDACTED 2], respectively. According to the Claimant, his mother died in New York, New York, the United States, on 10 December 1977, and his father died on 6 February 1979 in Larchmont, New York, the United States.

In support of his claim, the Claimant submitted various documents, including his birth

certificate and his brother's birth certificate, identifying them as [REDACTED] and [REDACTED], respectively, and indicating that they were each born in Karlsruhe; his mother's German passport, identifying her as Ellen Sara Löw-Stern, née Levis, and her children as [REDACTED 1] and [REDACTED 2]; his parents' marriage certificate, identifying the Claimant's mother as Ellen Löw-Stern, née Levis, of Karlsruhe; his mother's death certificate, identifying her as Ellen Stern who was born in Germany to [REDACTED] and [REDACTED]; his mother's United States Certificate of Naturalization, identifying her as Ellen Stern; and his mother's will, identifying her sons as [REDACTED 1] and [REDACTED 2]. The Claimant indicated that he was born on 15 March 1932 in Karlsruhe. The Claimant indicated that his brother, [REDACTED 2], was born on 8 July 1930 in Karlsruhe.

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 *Frau* (Mrs.) Ellen Stern Levis, who resided in Karlsruhe, Germany. The Bank's record indicates that the Account Owner held a safe deposit box. According to this record, the Bank froze this asset on 16 February 1945 pursuant to the Swiss freeze of German assets.

The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account. 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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record 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 has plausibly identified the Account Owner. His mother's name, city of residence, and marital status match the published name, city of residence, and marital status of the Account Owner. In support of his claim, the Claimant submitted documents, including his mother's passport, his mother's death certificate, and his parents' marriage certificate, which indicate the Claimant's mother's name and her residence in Karlsruhe, which match published information contained in the Bank's records. 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. The Claimant stated that the Account Owner was Jewish and that she fled Germany in 1938 due to Nazi persecution.

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 his mother. These documents include his mother's will and her German passport, which identify him as the son of the Account Owner.

The Issue of Who Received the Proceeds

Given that the account was frozen in 1945 pursuant to the Swiss freeze of German assets; that there is no record of the payment of the accounts to the Account Owner after the Second World War; that the Account Owner or 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 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 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 his mother, and that relationship justifies an Award. Finally, 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 safe deposit box. 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 ICEP Investigation, in 1945 the average value of a safe deposit box was 1,240.00 Swiss Francs. 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 15,500.00 Swiss Francs.

Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. According to Article 23(1)(c), if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother; therefore, the Claimant and his brother are each entitled to one-half of the total award amount.

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
28 May 2004