

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED],
also acting on behalf of [REDACTED] and [REDACTED],
represented by [REDACTED]

in re Accounts of Paul Wormser and Cécile Wormser

Claim Number: 216540/IG

Award Amount: 204,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Paul Wormser (“Account Owner Paul Wormser”) and Cécile Wormser (“Account Owner Cécile Wormser”) (together the “Account Owners”) at the Basel and Lausanne branches 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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Cécile Wormser as his maternal grandmother, Cécile Wormser, née Lévy, who was born on 18 April 1877 in Belfort, France, and was married to Léonard (Lucien) Wormser; and identifying Account Owner Paul Wormser as his maternal uncle, Paul Albert Wormser, who was born in Colmar, France, on 11 July 1905, and who was never married and never had children. The Claimant further stated that his uncle, who was Jewish, was a dental surgeon and that he lived in Colmar at avenue de la République 64 from 1905 until 1940, when he moved to Rumilly, France, until 1943, when he moved to the castle of Nayrolles, in Lassouts, France. According to the Claimant, his uncle was a member of the French Resistance, and that in August 1944 his uncle was detained by the Nazis. The Claimant explained that his uncle was executed by the Nazis during the massacre of Sainte-Radegonde, France, on 17 August 1944. The Claimant does not know the exact circumstances surrounding his grandmother's life during the Second World War, only that she lived in Nazi occupied France during that time.

In support of his claim, the Claimant submitted the death certificate of Cécile Wormser, née Lévy, indicating that she resided at avenue de la République 64, in Colmar, and died on 20 January 1954; the death certificate of his grandfather, Léonard (Lucien) Wormser,

indicating that he resided at avenue de la République 64, in Colmar, and died on 24 February 1934; the death certificate of his mother, [REDACTED], née [REDACTED], indicating that her parents were Leonard (Lucien) Wormser and Cécile Wormser, née Levy; his own birth certificate, showing that his parents were [REDACTED] and [REDACTED], née [REDACTED]; the birth certificate of Georges Wormser, the Claimant's uncle's brother, indicating that he was born in Colmar, France, on 15 April 1902 and passed away in Alençon, France, on 10 October 1963; and Paul Wormser's birth certificate. The Claimant indicated that he was born on 6 October 1924 in Colmar. The Claimant is representing his brothers, [REDACTED], who was born on 24 June 1930 in Colmar, and [REDACTED], who was born on 24 April 1926 in Colmar.

Information Available in the Bank's Records

The Bank's records consist of two customer cards, a safe deposit box registry card, and a printout from the Bank's database. According to those records, the Account Owners were *Monsieur* (Mr.) Paul Wormser, a dental surgeon, who resided at 64, avenue de la République in Colmar, France, and *Madame* (Mrs.) Cécile Wormser-Levy. 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") indicated that Account Owner Cécile Wormser also resided at 64, avenue de la République in Colmar.

The Bank's records indicate that Account Owner Paul Wormser held a demand deposit in Swiss Francs, numbered 39212, at the Basel branch of the Bank, and a custody account at the Lausanne branch of the Bank. According to the Bank's records, the demand deposit account was opened on 16 December 1933 and the power of attorney was held by Account Owner Cécile Wormser and *Monsieur* Lucien Wormser, who died some time after 1933. According to the Bank's records, the powers of attorney were cancelled on 30 July 1942. The Bank's records further indicate that bank correspondence concerning this account was initially sent to [REDACTED], Schützenmattstrasse 39, Basel, Switzerland, but that Account Owner Paul Wormser cancelled this mailing instruction on 2 October 1939 and ordered the Bank to hold all correspondence. The Bank's records also indicate that the last contact with Account Owner Paul Wormser was in 1939. The Bank's records further indicate that the demand deposit account was closed on 5 November 1942 with a negative balance of 35.00 Swiss Francs, and the closing of the account was confirmed by the Bank on 13 April 1946. The balance of the account on the date of its closure is not known. There is no evidence in the Bank's records that Account Owner Paul Wormser or his heirs closed the demand deposit account and received its proceeds.

The Bank's records further indicate that Account Owner Paul Wormser held a custody account at the Lausanne Branch of the Bank. According to the Bank's records, the custody account was opened on 26 September 1938, the account did not contain securities on 4 October 1940, and the account was closed on an unknown date, unknown to whom. There is no evidence in the Bank's records that Account Owner Paul Wormser or his heirs received the proceeds of the custody account.

The Bank's records indicate that the Account Owners jointly held a safe deposit box, numbered 1448, at the Lausanne branch of the Bank. The Bank's records also indicate that the Account Owners were identified by number 14018 in regard to the safe deposit box, and the power of attorney to the safe deposit box was granted to Georges Wormser. The Bank's records further indicate that the safe deposit box was rented on 25 July 1939, the rental fees were paid from Account Owner Paul Wormser's demand deposit account held at the Basel branch of the Bank, and that Account Owner Paul Wormser owed 35.00 Swiss Francs of rental fees as of 12 April 1946. The Bank's records indicate that the safe deposit box was forcibly opened on 9 February 1954, in the presence of a notary, and was found empty. There is no evidence in the Bank's records that the Account Owners or their heirs accessed the safe deposit box and received its contents.¹

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners and Power of Attorney Holders. The Claimant's uncle's and grandmother's names and city of residence match Account Owner Paul Wormser's and Account Owner Cécile Wormser's names and city of residence. The Claimant's uncle's (Georges Wormser) and the Claimant's grandfather's (Lucien Wormser) names match the published names of Power of Attorney Holder Georges Wormser and Power of Attorney Holder Lucien Wormser. The Claimant identified his uncle's and grandmother's exact street address and his uncle's profession, which matches unpublished information about the Account Owners contained in the Bank's records. In support of his claim, the Claimant submitted the death certificate of Cécile Wormser, née Lévy, indicating that she resided at avenue de la République 64, in Colmar; the death certificate of his grandfather, Léonard (Lucien) Wormser, indicating that he resided at avenue de la République 64, in Colmar; the death certificate of his mother, [REDACTED], née [REDACTED], indicating that her parents were Leonard (Lucien) Wormser and Cécile Wormser, née Levy; his own birth certificate, showing that his parents were [REDACTED] and [REDACTED], née [REDACTED]; the birth certificate of Georges Wormser, indicating that he was born in Colmar, France, on 15 April 1902; and Paul Wormser's birth certificate.

The CRT notes that a database containing the names of victims of Nazi persecution includes a person named Paul Wormser, from France, and indicates that he was born on 11 July 1905 and that he was executed in Sainte-Radegonde on 17 August 1944, which matches the information about the Account Owner Paul Wormser provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Furthermore, the CRT notes that there are no other

¹ The CRT notes that the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List") shows that Account Owner Paul Wormser held four accounts, and that Account Owner Cécile Wormser held two accounts. The Bank's records, however, show that Account Owner Paul Wormser held two accounts and that the Account Owners jointly held one account.

claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Paul Wormser was a Victim of Nazi Persecution. The Claimant stated that Account Owner Paul Wormser was Jewish and that he was executed by the Nazis on 17 August 1944. The Claimant further stated that Account Owner Cécile Wormser was Jewish, and that she lived in Nazi-occupied France. As noted above, a person named Paul Wormser was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents demonstrating that Account Owner Paul Wormser was his maternal uncle, and that Account Owner Cécile Wormser was his grandmother. These documents include the death certificate of his mother, [REDACTED], née [REDACTED], indicating that her parents were Leonard (Lucien) Wormser and Cécile Wormser, née Levy; his own birth certificate, indicating that his parents were [REDACTED] and [REDACTED], née [REDACTED]; and the birth certificate of Georges Wormser and Paul Wormser, indicating that their parents were Leonard (Lucien) Wormser and Cécile Wormser, née Levy. There is no information to indicate that the Account Owners have any surviving heirs other than the Claimant and his two brothers.

The Issue of Who Received the Proceeds

With regard to the demand deposit account held by Account Owner Paul Wormser, the Bank's records indicate that the last contact with the Account Owner was recorded to have taken place in 1939, France was invaded in June 1940, the powers of attorney were canceled on 30 July 1942 (although Power of Attorney Holder Lucien Wormser died in 1933 or 1934), and the account was closed on 5 November 1942, unknown to whom. Given that Account Owner Paul Wormser was executed in 1944; that there is no record of the payment of the Account Owner's account to him nor any record of date of closure for the custody account; 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 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 (a), (h), and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Paul Wormser, the Power of Attorney Holders or their 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.

With regard to the custody account, the Bank's records indicate that the account did not contain securities on 4 October 1940, and the account was closed on an unknown date, unknown to whom. Given that France had been occupied by the Nazis since May 1940, more than two years before the demand deposit account was closed and five months before the Bank indicated that the custody account did not contain securities; that the accounts were closed after the imposition of Swiss visa requirements on January 20, 1939, making it plausible that the Account Owner or Power of Attorney Holder Cécile Wormser were not able to access the accounts after this date; that Account Owner Paul Wormser was detained and later killed by the Nazis; that there is no record of the payment of the Account Owner's account to him nor any record of date of closure for the custody account; 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 due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (a), (h), and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Paul Wormser, the Power of Attorney Holders or their 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.

With respect to the safe deposit box account held jointly by the Account Owners, the Bank's records show that the safe deposit box was forcibly opened on 9 February 1954 by the Bank and was found empty. Given the above rationale; that there is no record of the payment of the Account Owners' account to them nor any record of date of closure for the account; that the Account Owners and their heirs would not have been able to obtain information about their 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 inquires by account owners because of the Banks' concern regarding double liability; and the application of Presumptions (a), (h), and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or their 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 Owners were his uncle and grandmother, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Paul Wormser held one custody account and one demand deposit account and the Account Owners jointly held one safe deposit box account.² 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs, the average value of a demand deposit account was 2,140.00 Swiss Francs, and the average value of the contents of a safe deposit box was 1,240.00 Swiss Francs. Thus, the total average 1945 value of the accounts at issue is 16,380.00 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 204,750.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing [REDACTED] and [REDACTED], his two brothers. Accordingly, the Claimant and his brothers are each entitled to one-third 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
31 December 2003

² The CRT notes that while the safe deposit box was found empty when it was forcibly opened on 9 February 1954 by the Bank, given that there is no record of a date of closure of the safe deposit box, the CRT has concluded to award this account.