

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Franco Levi
represented by Nicole Levi

in re Account of Franco di Alberto Levi

Claim Number: 209001/AK

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Franco Levi (the “Claimant”) to the unpublished account of Franco di Alberto Levi (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as himself, Professor Franco Levi, who was born on 20 September 1914 in Turin, Italy, and who was married to Nicole Levi, née Jullien, on 9 May 1941 in Marseille, France. The Claimant, who is Jewish, stated that he and his wife, his two sisters, Nella and Carla, and his father, Alberto Levi, were interned as refugees in Switzerland from 22 October 1943 until 29 July 1945 in camps in Ticino, Switzerland, and Lausanne, Switzerland. The Claimant stated that, upon his entry into Switzerland, all of his valuables and money were confiscated and later deposited at the Bank.¹ According to the Claimant, the balance of his account at the Bank was approximately 200,000.00 Lira (“ITL”) in 1943. The Claimant further stated that he and his father worked as teachers in a military camp in Lausanne, and that they were not paid for their work. The Claimant indicated that he had to pay 3,300.00 Swiss Francs (“SF”) to the Swiss authorities to cover the cost of his and his family's internment before he left Switzerland, and that these authorities also retained an

¹ The CRT notes that pursuant to the Swiss Federal Council's Decree of 12 March 1943, the assets of all refugees who entered Switzerland after 1 August 1942 were confiscated by the Swiss Federal authorities and held for them in accounts at the Bank, and the accounts were managed by the Swiss police authorities. See Independent Commission of Experts Switzerland Second World War, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus* (Switzerland and Refugees during the National Socialist Era) Band 17, Zurich: Chronos Verlag, 2001, p. 293-294 (hereinafter, the “Bergier Refugee Report”). See also *In re Accounts of Emma Kuckel-Pipersberg* (approved on 11 April 2005).

additional ITL 1,000,000.00, which the Claimant inherited from a relative in Rome, Italy. The Claimant finally stated that he returned to Italy in 1945, and that his money was never returned.

The Claimant submitted his own passport, indicating that his name is Franco Levi, that he has Italian citizenship, and that he was born on 20 September 1914 in Italy. The Claimant also submitted an account statement from the Bank, which is described in detail below.

The Claimant previously submitted an Initial Questionnaire ("IQ") to the Court in 1999, asserting his entitlement to a Swiss bank account owned by himself.

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 Franco di Alberto Levi during their investigation of the Bank. The Bank's record was submitted by the Claimant.

The Bank's record consists of an account statement, dated 10 November 1943. According to this record, the Account Owner was Franco di Alberto Levi. The Bank's record indicates that the Account Owner held a demand deposit account, numbered CC 4, with a balance of ITL 20,000.00, converted into SF 303.00. The Bank's record contains no further information regarding the account's subsequent disposition.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's name matches the name of the Account Owner specified on the Bank's record submitted by the Claimant. Moreover, the Claimant stated that his father's first name was Alberto, which is consistent with the indication on the Bank's record that the Account Owner's middle name was "di Alberto." The CRT notes that the document evidencing the existence of this account was submitted by the Claimant himself. The CRT notes that an account statement is a document which most likely only the actual Account Owner, or someone closely related to the Account Owner, would possess. In support of his claim, the Claimant submitted documents, including a copy of his passport, indicating that his name is Franco Levi, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner. Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that he was a Victim of Nazi Persecution. The

Claimant stated that he is Jewish, and that he and his family sought refuge from Nazi persecution in Switzerland during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is the Account Owner by submitting specific information and documents. These documents include his passport, indicating that he is Franco Levi.

The Issue of Who Received the Proceeds

Given that owners of refugee accounts generally could not freely dispose over their accounts;² that there is no record of the payment of the Account Owner's account to him; that a significant number of refugee accounts could not be retrieved by account owners;³ that complaints of refugees mostly concerned the fact that their deposited assets were not returned;⁴ that the Account Owner 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 (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 he is the Account Owner, which 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 demand deposit account. The Bank's record indicates that the value of the demand deposit account as of 10 November 1943 was SF 303.00. 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

² Bergier Refugee Report, pp. 295, 315. See also *In re Accounts of Emma Kuckel-Pipersberg*.

³ Bergier Commission Refugee Report, pp. 312 ff., 309. See also *In re Accounts of Emma Kuckel-Pipersberg*.

⁴ Jung, Joseph (ed.): *Zwischen Bundeshaus und Paradeplatz - Die Banken der Credit Suisse Group im Zweiten Weltkrieg*, (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War), Zurich: NZZ Verlag, 2001, p. 704. See also *In re Accounts of Emma Kuckel-Pipersberg*.

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 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
23 June 2006