

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Account of Berthe Davidovitsch

Claim Numbers: 719349/ES²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (“the Claimant”) to the published account of Berthe Davidovitsch (the “Account Owner”) at the Zurich 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 an IQ with the Court in 1999 identifying the Account Owner as her paternal grandmother, Berthe Davidovitsch, who was born in 1885, and was married to [REDACTED]. The Claimant stated that her grandparents, who were Jewish, resided in Maramures, Romania, and had one son, [REDACTED], the Claimant’s father, who was born on 9 May 1914. The Claimant indicated that her grandparents owned a hardware center together with her father and that they had business connections with factories in Germany and Switzerland. The Claimant indicated that her father was deported to Oradea, Romania, and subsequently confined to a ghetto. The Claimant stated that her grandmother died in 1940 in Romania and that her father died on 18 September 1995 in Haifa, Israel. The Claimant submitted documents, including her own Romanian birth certificate, indicating her maiden name was [REDACTED] and that her father was [REDACTED], and her father’s Israeli death certificate, indicating his last name was [REDACTED].

¹ [REDACTED] died on 23 December 2001. Her husband, [REDACTED], submitted her death certificate, her marriage certificate, and the birth certificates of her two daughters, [REDACTED] and [REDACTED].

² [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered HEB-0221-009, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 719349.

The Claimant indicated that she was born on 15 August 1947 in Cluj, Romania.

Information Available in the Bank's Record

The Bank's record consists of a list of dormant accounts. According to this record, the Account Owner was *Madame* (Mrs.) Berthe Davidovitsch. The Bank's record does not indicate the Account Owner's city or country of residence. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated. The Bank's record indicates that the account was transferred to a suspense account for dormant assets some time before 30 June 1964 and that the account was closed on 30 June 1964. The amount in the account on the date of its closure is unknown. 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's paternal grandmother's name matches the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name and title.

The CRT notes that the name Berthe Davidovitsch appears only once on the February 2001 published list of accounts determined by Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Berthe Davidovitsch, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant has based her claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

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 Account Owner was Jewish and while she died in 1940, her son, who was also Jewish, was deported to Oradea and subsequently confined to a ghetto.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was her paternal grandmother. The Claimant submitted documents, including her own Romanian birth certificate, indicating her maiden name was [REDACTED] and that her father was [REDACTED], and her father's Israeli death certificate, indicating his last name was [REDACTED], providing independent verification that the Claimant's relatives bore the same family name as the Account Owner. The CRT further notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. 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 she has asserted in her IQ.

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

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to a suspense account some time before 30 June 1964 and that it was closed on 30 June 1964.

Given that according to the Claimant, the Account Owner died in 1940 and the Account Owner's son was confined to a ghetto; that there is no record of the payment of the Account Owner's account to her; 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 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 claims are 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 grandmother, 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 account of unknown type. 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 investigation carried out pursuant to the instructions of the ICEP (the "ICEP Investigation"), in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs ("SF"). The present 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 SF 49,375.00.

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
10 December 2004