

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], [REDACTED 3], and [REDACTED 4]

in re Accounts of Pierre Levy, and Account of Pierre Levy and Fernande Levy

Claim Number: 222350/RS

Award Amount: 351,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Albert May.¹ This Award is to the published account of Pierre Levy (“Account Owner Pierre Levy”) at the Basel branch of [REDACTED] (“Bank I”); the published account of Pierre Levy and Fernande Levy (“Account Owner Fernande Levy”) (together the “Account Owners”), over which René Weil (“Power of Attorney Holder Weil”) and Albert May (“Power of Attorney Holder May”) held power of attorney, at the Basel branch of [REDACTED] (“Bank II”); and to the published account of Pierre Levy, over which Fernande Levy, René Weil, and Salomon Günzburger held power of attorney, at Bank II.^{2,3}

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.

¹ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Albert May appears twice. Upon careful review, the CRT has determined that only one individual named Albert May held an account, and that the second Albert May was solely the power of attorney holder on an account, and not the account holder. Furthermore, upon careful review, the CRT has determined that the account holder named Albert May is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as his relative.

² The CRT notes that, on the ICEP list, Pierre Levy is indicated as having five accounts. Upon careful review, the CRT has determined that one of these accounts belongs to a different person than the person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as his relative. After further careful review, the CRT has concluded that, with respect to the remaining four published accounts of Pierre Levy, the Bank’s records evidence the existence of only three accounts.

³ The CRT notes that the names Albert May, Pierre Levy, Fernande Levy, Salomon Günzburger, and Fernande Günzburger were separately published as account owners. Upon careful review, the CRT has determined that the records of Bank II show that Fernande Günzburger was, in fact, Fernande Levy, that one account was jointly held by Pierre Levy and Fernande Levy, and another account was only held by Pierre Levy, while Albert May, Salomon Günzburger, and Fernande Levy, were, in fact, power of attorney holders on that account.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Fernande Levy and Account Owner Pierre Levy as the sister and brother-in-law, respectively, of his paternal grandmother, [REDACTED], née [REDACTED]. The Claimant stated that Fernande Levy, née Levy, was born sometime in the early 1900s. According to the Claimant's sister, [REDACTED 3] (whom the Claimant represents), Fernande and Pierre Levy, who were Jewish, resided in Strasbourg, France, and had a daughter, [REDACTED]. The Claimant identified Power of Attorney Holder Weil as the husband of [REDACTED], René Weil.

The Claimant further identified Power of Attorney Holder May as his paternal grandfather, Albert May, who was born in approximately 1874 in Bischeim (Bischheim), France, and was married to [REDACTED], née [REDACTED], in Strasbourg. The Claimant stated that Albert May resided at 17 Theodore de Banville in Paris, France, until 1939; that in approximately 1941 he lived in Aix-Les-Bains, France; and that towards the end of the Second World War, he fled to Switzerland together with his wife.

In support of his claim, the Claimant and his sister submitted a copy of: (1) a very detailed family tree, which was drafted in 1977 by their father, [REDACTED], which indicates that Albert May and [REDACTED] were the parents of [REDACTED] and [REDACTED]; that Fernande Levy was the sister of [REDACTED] and that Fernande Levy was married to Pierre Levy; that René Weill was married to [REDACTED], the daughter of Pierre and Fernande Levy; and that, by 1977, Albert May, [REDACTED], Fernande Levy, Pierre Levy and René Weill were all deceased; and (2) a notarized declaration of inheritance, dated 29 October 1989, indicating that [REDACTED], [REDACTED 1], and [REDACTED 2] were the children of [REDACTED].

The Claimant indicated that he was born on 7 March 1963 in Saint-Cloud, France. The Claimant is representing his brother, [REDACTED 2], who was born on 23 February 1965 in Suresnes, France; his sister [REDACTED 3], who was born on 22 February 1961 in Saint Cloud; and his cousin, [REDACTED 4], who is the son of Albert and [REDACTED]'s son [REDACTED].

Information Available in the Records of Bank I and Bank II

Bank I

Bank I's records include a bank statement dated 5 August 1955, and a list of accounts at Bank I entitled "Names of possible Jewish origin?" (*Name eventuell jüdischen Ursprungs?*). According to these records, the Account Owner was *Monsieur* (Mr.) Pierre Levy who resided at 12 rue de Wasselonne in Strasbourg, France. Bank I's records indicate that Account Owner Pierre Levy held a demand deposit account, which, on 26 August 1953, held a balance of SF 25.00. The records further indicate that, on 20 November 1954 and on 5 August 1955, Bank I deducted fees from the demand deposit account.

The auditors who carried out the investigation of Bank I determined that, on or before 26 August 1953, Account Owner Pierre Levy's demand deposit account was transferred to a suspense account. A hand written note on Bank I's statement states that the demand deposit account was

eventually closed to Bank I's profit and loss account on 19 October 1964. The amount in the demand deposit account on the date of its closure is unknown.

There is no evidence in Bank I's records that Account Owner Pierre Levy or his heirs closed the account at Bank I and received the proceeds themselves.

Bank II

Bank II's records include a power of attorney form, signed in Basel on 9 April 1930, and a list of accounts owned by account owners from Strasbourg. According to these records, the account owners were Pierre Levy and Fernande Levy, both of whom resided at 41 rue Schweighäuser in Strasbourg; the power of attorney holders were Albert May, who resided at 16 or 17⁴ rue Theodore de Banville in Paris, France, and René Weil, who resided at 41 rue Schweighäuser in Strasbourg. Bank II's records indicate that Account Owner Pierre Levy and Account Owner Fernande Levy held a custody account numbered 30849 at Bank II.⁵

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of Bank II to obtain additional information about account number 30849 ("Voluntary Assistance").

Bank II provided the CRT with additional documents. These documents consist of a card with a list of clients; a letter from Pierre Levy and Fernande Levy to Bank II dated 3 April 1930; a letter from Pierre Levy and Fernande Levy to Bank II dated 10 April 1930; a contract for a joint account, dated 3 April 1930; and a client card.

These documents indicate that on 3 April 1930, Pierre Levy and his wife, Fernande Levy, née Levy, signed a joint-account contract opening custody account 30849. Furthermore, in the letter dated 3 April 1930, Pierre Levy informed Bank II that he had signed his last will, indicating that upon his death, his wife would inherit his assets, and that account 30849 was jointly-owned by him and his wife. Lastly, in a letter dated 10 April 1930, Pierre Levy and Fernande Levy informed Bank II that in the future, both of them would sign all letters to Bank II with the written number of their account: "thirty-thousand-eight-hundred-and-forty-nine," written in French.

Bank II's records do not indicate when custody account numbered 30849 was closed, nor do these records indicate the value of this account.

Bank II also provided the CRT with additional documents, including a customer card and three power of attorney forms. These documents indicate the existence of an additional custody account, numbered 30801, that was owned by Pierre Levy, who resided at 41 rue Schweighäuser, Strasbourg, and over which his wife, Mrs. Fernande Levy; Mr. René Weil of Strasbourg; and

⁴ The number following '1' in Albert May's street address is slightly illegible in the original bank records.

⁵ Bank II's records contain several power of attorney forms that reference a "*Dépôt de titres*" which is a custody account. Such forms were typically used by Bank II at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that Account Owner Pierre Levy and Account Owner Fernande Levy held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that they held such an account.

Salomon Günzburger of Basel, Switzerland held power of attorney. Bank II's records do not indicate when custody account numbered 30801 was closed, nor do these records indicate the value of that account.

There is no evidence in Bank II's records that the Account Owners or their heirs closed accounts 30849 or 30801 and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Pierre Levy, Account Owner Fernande Levy, and Power of Attorney Holder Weil and Power of Attorney Holder May. The Claimant's grandmother's sister's name matches the published name of Account Owner Fernande Levy, and the Claimant's grandmother's brother-in-law's name matches the published name of Account Owner Pierre Levy. The Claimant identified the city and country of residence of the Account Owners, which match published information about the Account Owners contained in the records of Bank I and Bank II.

Furthermore, the Claimant's grandfather's name, street address, and city and country of residence match the unpublished name, street address, and city and country of residence of Power of Attorney Holder May. The Claimant's father's cousin's husband's name also matches the unpublished name of Power of Attorney Holder Weil.

The Claimant also identified the familial relationship between Account Owner Pierre Levy, Account Owner Fernande Levy, Power of Attorney Holder May, and Power of Attorney Holder Weil, which is consistent with unpublished information contained in Bank II's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Albert May, and indicates that his year of birth was 1873 and his places of residence were France and Switzerland, which closely matches the information about Power of Attorney Holder May 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 other claims to these accounts were disconfirmed because those claimants provided different cities or different countries of residence than the cities and country of residence of the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant and represented parties stated that the Account Owners were Jewish, and that they resided in Nazi-occupied France.

The Claimants have also made a plausible showing that Power of Attorney Holder May was a Victim of Nazi Persecution. The Claimant indicated that Power of Attorney Holder May fled France to Switzerland with his wife during the Second World War, and that his son, [REDACTED], was deported from France to forced labor camps in Germany and Poland. Represented Party [REDACTED 4] stated that after the occupation of France, the building where Power of Attorney Holder May resided was taken over by the Gestapo, that he was forced to flee to southern France, and that Power of Attorney Holder May's son, [REDACTED], was captured by the Nazis and sent to Germany as a prisoner of war.

As noted above, a person named Albert May 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 Account Owner Pierre Levy, Account Owner Fernande Levy, and Power of Attorney Holder May and Power of Attorney Holder Weil by submitting biographical information and documents, demonstrating that Account Owner Fernande Levy was the Claimant's grandmother's sister, and that Account Owner Pierre Levy was the Claimant's grandmother's brother-in-law. These documents include a detailed family tree, dated 1977, indicating that Albert May and [REDACTED] were the parents of [REDACTED] and [REDACTED], that Fernande Levy was the sister of [REDACTED] and that Fernande Levy was married to Pierre Levy, and that René Weill was married to the daughter of Fernande and Pierre; and a notarized declaration of inheritance, indicating that [REDACTED 3], [REDACTED 1], and [REDACTED 2] were the children of [REDACTED].

The CRT further notes that the Claimant identified unpublished information about Power of Attorney Holder May and Power of Attorney Holder Weil as contained in Bank II's records, as well as the unpublished familial relationship between the Account Owners, and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of his father's notarized declaration of inheritance, and his own French national identification card which provide independent verification that the Claimant and his relatives resided in the same country as the Account Owners, and that the Claimant had the same surname as Power of Attorney Holder May. Finally, the CRT notes that the foregoing information is of the type that family members would possess, and indicates that the Account Owners and Power of Attorney Holders were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners and the Power of Attorney Holders, as he has asserted in his Claim Form.

There is no information to indicate that the Account Owners have other surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

With respect to the demand deposit account at Bank I, Bank I's records indicate that, on or before 26 August 1953, the account was transferred to a suspense account, and that it was closed to Bank I's profit and loss account on 19 October 1964.

With respect to accounts 30849 and 30801 at Bank II, given that there is no record of the payment of the Account Owners' accounts to them, nor any record of a date of closure of these two accounts; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from Bank II 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 (f), (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 Owners, Power of Attorney Holder Weil, or Power of Attorney Holder May, 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 and the parties he represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Fernande Levy was the Claimant's grandmother's sister, and that Account Owner Pierre Levy was the Claimant's grandmother's brother-in-law, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, there are three accounts: a demand deposit account at Bank I, and two custody accounts at Bank II.

With respect to the demand deposit account at Bank I which was owned by Account Owner Pierre Levy, Bank I's records indicate that the value of the demand deposit account as of 26 August 1953 was SF 25.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 135.00, which reflects standardized bank fees charged to a demand deposit account between 1945 and 1953. Consequently, the adjusted balance of the account at issue is SF 160.00. 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.

With respect to custody account number 30849, jointly held by Account Owner Pierre Levy and Account Owner Fernande Levy, and with respect to custody account number 30801, held by Account Owner Pierre Levy, 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 custody account was SF 13,000.00, for a combined 1945 average value for the two custody accounts of SF 26,000.00.

Thus, the combined 1945 value for the three accounts at issue is SF 28,140.00. 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 SF 351,750.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.

In this case, the Claimant is representing his brother, [REDACTED 2], his sister, [REDACTED 3], and his cousin, [REDACTED 4], who is the son of his father's brother [REDACTED]. Accordingly, represented party [REDACTED 4] is entitled to one-half of the total award amount, or SF 175,875.00; and the Claimant, represented party [REDACTED 2], and represented party [REDACTED 3] are each entitled to one-sixth of the total award amount, or SF 58,625.00.

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
30 September 2008