

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED], née [REDACTED]

in re Account of Kurt Bachenheimer

Claim Number: 215405/PY

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Kurt Bachenheimer (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 a Claim Form identifying the Account Owner as her father, Kurt Bachenheimer, who was born in 1908 in Frankfurt am Main, Germany and was married to [REDACTED], née [REDACTED] in Munich, Germany in approximately 1938. The Claimant stated that her father, who was Jewish, resided in Munich, where he was a salesman. According to the Claimant, Kurt Bachenheimer and his wife fled to Switzerland in approximately 1938 (shortly after they married) in order to escape Nazi persecution, and later emigrated to the United States. The Claimant stated that Kurt Bachenheimer died in 1977 in the United States, four years after his wife died. The Claimant also identified her maternal grandfather, Izak (or Isaak) Itzak Rosenberg, whom the Claimant stated was also Jewish and resided in Munich. The Claimant stated that her maternal grandparents owned six shoe stores in Germany, that the Nazis confiscated her grandparents’ property, and that the family business was aryanized. According to the Claimant, her grandfather fled to Poland several years before the Nazis invaded that country, but because her family did not hear from him after the Second World War, they presumed that the Nazis had killed him in Poland. In support of her claim, the Claimant submitted her birth certificate, which identifies her parents as Kurt and [REDACTED] Bachenheimer. The Claimant stated that she was born on 24 September 1943 in Los Angeles, California.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED], Izak Rosenberg or [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of a contract for the rental of a safe deposit box dated 30 June 1934; a power of attorney form signed by Kurt Bachenheimer and Isaak (Ignatz) Rosenberg in Zurich on 17 August 1934; a copy of a travelling salesman identity card issued by Switzerland and signed by Isaak Ignatz Rosenberg in Zurich on 21 September 1934; an extract from a list of accounts submitted to ATAG in 1997; and printouts from the Bank's database. According to these records, the Account Owner was Kurt Bachenheimer, who resided in Munich at Sturystrasse 2; and the Power of Attorney Holder was Isaak (Ignatz) Rosenberg, who provided a temporary address at Weinbergstrasse 17, Zurich, Switzerland, and a second address at Mikolovska 7 near Goldberg and Moniuszki 12, Wohnung 17, Katowice, Poland. The Bank's records indicate that the Account Owner held a safe deposit box numbered 895. The Bank's records also include a letter from the Bank to Ignatz Rosenberg dated 9 August 1937, demanding payment of 22.00 Swiss Francs for outstanding rental fees for safe deposit box 895, and a record dated 10 February 1939 regarding the forced opening of safe deposit box number 895 belonging to Kurt Bachenheimer. Further, there is a subsequent letter from the Bank to Ignatz Rosenberg dated 23 February 1939, notifying him of the forced opening of the safe deposit box and listing its contents: a gold watch, a gold ring, and various articles of correspondence. According to the Bank's records, the account was subsequently closed and its contents were placed into an *ad hoc* Bank account for safekeeping. The Bank's records do not indicate the value of the contents of the safe. The account remains open and dormant.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her father's name matches the published name of the Account Owner and her grandfather's name matches the published name of the Power of Attorney Holder. The Claimant also identified her father's place of residence as Munich, Germany, which matches further published information about the Account Owner contained in the Bank's records. Additionally, the Claimant identified the fact that her grandfather lived in Poland for a period of time, which matches unpublished information about the Power of Attorney Holder contained in the Bank's records. The CRT notes that the name Kurt Bachenheimer appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution.

Furthermore, the CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Izak Rosenberg, the Power of Attorney Holder in this case, prior to the publication in February 2001 of the list of accounts determined by ICEP

to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). This indicates that the Claimant has based her present 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. The CRT further notes that the other claims to this account were disconfirmed because those claimants provided different countries of residence than the country of residence of the Account Owner. 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 he fled Germany to Switzerland, and then emigrated to the United States in order to avoid Nazi persecution.

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 and documents, demonstrating that the Account Owner was her father. These documents include her birth certificate, which states that her father was Kurt Bachenheimer. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank’s records indicate the account remains open and dormant.

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 Governing the Claims Resolution Process, as amended (the “Rules”). Second, the Claimant has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or 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.

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
6 February 2004