

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Accounts of Helene Bass

Claim Numbers: 203128/MBC; 222519/MBC; 222629/MBC

Award Amount: 204,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Alfred Bass and Friedrich Bass, and upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of [REDACTED].¹ This Award is to the unpublished accounts of Helene Bass (the “Account Owner”) at the [REDACTED] (the “Bank”).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 Claimants

The Claimants, who are cousins, submitted Claim Forms identifying the Account Owner as their paternal grandmother, Helene Bass, née Nagel, who was married to [REDACTED]. The Claimants stated that their grandparents, who were Jewish, resided in Vienna, Austria and had three sons: Friedrich, [REDACTED] (Claimant [REDACTED 2]’ father), and Alfred (Claimant [REDACTED 1]’ father). The Claimants further indicated that Friedrich Bass was a medical doctor; that [REDACTED] was a partner in a publishing company of a trade journal; and that Alfred Bass was a lawyer. The Claimants stated that their grandfather died before the Second World War. The Claimants further indicated that after the Nazi incorporation of Austria into the Reich (the *Anschluss*) their grandmother and her sons fled Austria to Liechtenstein, and then in early 1939 fled to Zurich, Switzerland. The Claimants further stated that in early 1939, their grandmother left Switzerland for London, the United Kingdom, and that in 1940 she emigrated to New York, the United States, where she died in 1945.

¹ The CRT awarded the accounts of Alfred and Friedrich Bass to the Claimants in a separate decision. See in re Accounts of Alfred Bass and Friedrich Bass (approved on 18 November 2004). The CRT will treat the claim to the account of [REDACTED] in a separate determination.

Claimant [REDACTED 1] submitted her father's death certificate, indicating that Alfred Bass was born on 15 December 1894 in Austria to [REDACTED] and Helen Nagel, and that he had a daughter named [REDACTED 1]; a copy of her father's will, indicating that [REDACTED 1] was the daughter of Alfred Bass, and that she was his sole beneficiary; and the death certificate of [REDACTED], indicating that he was born in Austria to [REDACTED] and Helen Nagel. Claimant [REDACTED 1] indicated that she was born on 10 April 1948 in New York, New York.

Claimant [REDACTED 2] submitted his own birth certificate, indicating he was born in Vienna on 4 November 1927, and that his father was Dr. [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of a customer card and a safe deposit box registry card. According to these records, the Account Owner was *Frau* (Mrs.) Helene Bass, née Nagel, who resided in Vienna, Austria and assumed the accounts on 27 August 1933 from Dr. *med.* (Doctor of Medicine) [REDACTED]. The Bank's records indicate that the Account Owner held four accounts: a savings account numbered 101072 that was closed 15 August 1938; a custody account numbered L50461 that was closed on 19 August 1938; a safe deposit box numbered 513 that was rented on 15 August 1938 and closed on 15 February 1939; and a demand deposit account. The Bank's records indicate that the demand deposit account was closed, but its date of closure is not recorded. 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 there was no evidence of activity on this account after 1945.

There is no evidence in the Bank's records that the Account Owner or her heirs closed the accounts and received the proceeds herself

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Helene Bass, numbered 15287, which also cross-reference the file of her son, Dr. Alfred Bass, numbered 15243, as containing special documents. These files indicate that Helene Bass was born on 9 July 1867, that Alfred Bass was born on 15 December 1894, and that they both resided at Eichendorffgasse 3, Vienna 19. According to these records, Helene Bass was the widow of a medical doctor. In correspondence from November 1938 to January 1939, between the Reich's Central Bank Office in Vienna (*Reichsbankhauptstelle Wien*) and the *Vermögensverkehrsstelle*, it is indicated that on 8 August 1938, Helene Bass paid flight tax (*Reichsfluchtsteuer*) of 19,337.00 Reichsmarks ("RM"), and that, according to the caretaker at their residence, two days later, on 10 August 1938, Dr. Alfred Bass and Helene Bass traveled to Switzerland, after having

given their apartment furniture to a *Frau* Dr. Slatky, a Hungarian citizen said to be of Aryan origin, who herself departed Vienna for Budapest in the first week of November 1938. The correspondence further indicates that the *Vermögensverkehrsstelle*, at the request of the *Reichsbankhauptstelle*, conducted a search for the securities held by Alfred and Helene Bass. A Gestapo search found that Alfred and Helene Bass, despite having paid flight tax, had emigrated without exit permits and were untraceable. The final correspondence from the *Vermögensverkehrsstelle*, dated 5 January 1939, indicated that nothing further could be done and that the search efforts were therefore terminated. Finally, these records indicate that Helene Bass reported holding various assets and securities denominated in different currencies, including Swiss Francs (“SF”), but there is no indication that these assets were held in an account at a Swiss bank.

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), claims to the same, or related accounts may be joined in one proceeding at the CRT’s discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants’ grandmother’s name, maiden name, city, and country of residence match the unpublished name, maiden name, city, and country of residence of the Account Owner. The Claimants also identified the former account owner, which also matches unpublished information contained in the Bank’s records.

In support of her claim, Claimant [REDACTED 1] submitted her father’s death certificate, indicating that Alfred Bass was born in Austria to [REDACTED] and Helen Nagel; and the death certificate of [REDACTED], indicating that he was born in Austria to [REDACTED] and Helen Nagel. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank’s records as the name and city of residence of the Account Owner.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and that she fled Austria after the *Anschluss*.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' grandmother. Claimant [REDACTED 1] submitted her father's death certificate and will, indicating that Claimant [REDACTED 1] is the daughter of Alfred Bass, who was the son of [REDACTED] and Helen Nagel; and the death certificate of [REDACTED], indicating that he was the son of [REDACTED] and Helen Nagel. Claimant [REDACTED 2] submitted his own birth certificate, indicating he was the son of Dr. [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

In the present case, the Account Owner held one savings account, one custody account, one safe deposit box, and one demand deposit account.

With respect to the savings account that was closed 15 August 1938, the CRT notes that this account was closed on the same day that the Account Owner rented the safe deposit box account. Therefore, the CRT determines that the Account Owner was able to access and manage her accounts on that particular date, and that she therefore closed the savings account and received the proceeds herself.

With respect to the custody account and the safe deposit box account, the CRT notes that the Bank's records indicate that the accounts were closed on 19 August 1938 and on 15 February 1939, respectively, at which time, according to information provided by the Claimants, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the accounts were closed, that the Account Owner fled her country of origin due to Nazi persecution; with respect to the demand deposit account, given that the Account Owner fled Austria after the *Anschluss* and that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; with respect to the custody account, the safe deposit box account, and the demand deposit account, given that the Account Owner and her heirs would not have been able to obtain information about her accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the

Claimants have plausibly demonstrated that the Account Owner was their grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the custody account, the demand deposit account, and the safe deposit box.

Amount of the Award

In this case, the Award is for a custody account, a safe deposit box account, and a demand deposit account. 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, the average value of a safe deposit box account was SF 1,240.00, and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 16,380.00 for the three accounts. 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 204,750.00.

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 Claimants are cousins and the grandchildren of the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
14 December 2005