

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]

in re Account of Adolf Bauer and Clara Bauer

Claim Numbers: 501000/SB; 501001/SB

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Adolf Bauer (“Account Owner Adolf Bauer”) and Clara Bauer (“Account Owner Clara Bauer”) (together the “Account Owners”), over which Elsbeth Bauer (the “Power of Attorney Holder”) held power of attorney, at [REDACTED] (the “Bank”).¹

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 Owners as her maternal grandparents, Adolf and Clara Bauer, née Dessauer, and identifying the Power of Attorney Holder as her maternal aunt, Elsbeth Bauer. The Claimant stated that her grandfather was born in 1864, and that her grandmother was born on 12 March 1882 in Frankfurt, Germany. The Claimant further stated that her grandparents, who were Jewish, resided in Frankfurt at Beethovenstrasse 3b. According to the Claimant, her grandparents had two children: her aunt, Elsbeth Rothschild, née Bauer, born in 1907, and [REDACTED], née [REDACTED], the Claimant’s mother, born in 1909. The Claimant stated that her grandfather, who was a businessman, died on 31 January 1936, and that her grandmother was deported to the Lodz ghetto in 1941, where she perished on 8 May 1945. The Claimant submitted several documents in support of her application, including: 1) Clara Bauer’s birth certificate, which indicates that she was born in Frankfurt and that her maiden name was Dessauer; 2) Adolf and Clara Bauer’s

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”), Adolf Bauer and Clara Bauer are each indicated as owning one account. Upon careful review, the CRT concludes that Adolf Bauer held two accounts, and that Clara Bauer assumed ownership of one of Adolf Bauer’s accounts after his death.

joint will which indicates that they resided on Beethovenstrasse, Frankfurt; 3) Adolf Bauer's death certificate, which indicates that he formerly resided at Beethovenstrasse, Frankfurt; 4) Elsbeth Bauer's birth certificate, which indicates that she was born in Frankfurt, and that her parents were Adolf and Clara Bauer, née Dessauer; 5) Elsbeth Rothschild's death certificate, which indicates that she died on 16 August 1994, in New York, United States and that her niece was [REDACTED 1]; 6) Elsbeth Rothschild's will, dated 24 February 1992, which indicates that she bequeathed to the Claimant and her brother, [REDACTED 2], 30% of her estate each; 7) the death certificate of the Claimant's mother, [REDACTED], née [REDACTED], indicating that her parents were Adolf Bauer and Clara Dessauer, and that she died on 4 August 1955; and 8) an obituary, indicating that [REDACTED] died in New York and that she was survived by her husband, her daughter, [REDACTED 1] and her son, [REDACTED 2]. The Claimant indicated that she was born on 7 June 1944 in New York. The Claimant is representing her brother, [REDACTED 2], who was born on 15 May 1947 in New York.

Information Available in the Bank's Records

The Bank's records consist of two customer cards. According to these records, the Account Owners were Adolf and Clara Helene Bauer, née Dessauer. The Bank's records indicate that Account Owner Adolf Bauer initially resided at Mainzer Landstrasse 187/189 and later at Beethovenstrasse 3b in Frankfurt, Germany. The Bank's records further indicate that Account Owner Adolf Bauer held a demand deposit account and a custody account, and that he granted power of attorney over his accounts to Account Owner Clara Bauer and Elsbeth Bauer. According to the Bank's records, Account Owner Adolf Bauer died in January 1936.

The records further indicate that upon Account Owner Adolf Bauer's death, Account Owner Clara Bauer, who provided her address as Schumannstrasse 57 in Frankfurt, assumed ownership of the demand deposit account. There is no indication in the records showing whether Account Owner Clara Bauer also assumed ownership of the custody account. The Bank's records do not show when the accounts at issue were closed nor do these records indicate the value of these accounts. 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 find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

There is no evidence in the Bank's records that the Account Owners, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's grandparents' names, city and country of residence match the published names, city and country of residence of the Account Owners. The Claimant's aunt's maiden name matches the published name of the Power of Attorney Holder. The Claimant also identified the Account Owners' street address, Account Owner Clara Bauer's maiden name; and Account Owner Adolf Bauer's date of death, all of which matches unpublished information about the Account Owners contained in the Bank's records. In support of her claim, the Claimant submitted documents, including: Clara Bauer's birth certificate, which indicates that her maiden name was Dessauer and that she was born in Frankfurt; Adolf and Clara Bauer's joint will, indicating that they resided on Beethovenstrasse 3b in Frankfurt; Adolf Bauer's death certificate, indicating that he resided at Beethovenstrasse 3b, Frankfurt, prior to his death on 30 January 1936; and Elsbeth Bauer's birth certificate, which indicates that she was born in Frankfurt, and that her parents were Adolf and Clara Bauer, née Dessauer, providing independent verification that the people who are claimed to be the Account Owners and Power of Attorney Holder had the same names and resided at the same address recorded in the Bank's records as the names and address of the Account Owners and the Power of Attorney Holder.

The CRT notes that the names Adolf and Clara Bauer appear only once each on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Clara Bauer, and indicates that her date of birth was 12 March 1882 and place of birth was Frankfurt, which matches the information about Account Owner Clara Bauer 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 there are no other claims to this account.

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 stated that the Account Owners were Jewish, that they resided in Nazi Germany, where Account Owner Adolf Bauer died in 1936, and that Account Owner Clara Bauer was deported to the Lodz ghetto in 1941, where she perished on 8 May 1945.

As noted above, a person named Clara Bauer was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by

submitting specific information and documents, demonstrating that the Account Owners were the Claimant's grandparents. These documents include the death certificate of the Claimant's mother, [REDACTED], née [REDACTED], which indicates that her parents were Adolf Bauer and Clara Dessauer, and an obituary, indicating that [REDACTED] died in New York and was survived by her children, [REDACTED 1] and [REDACTED 2]. There is no information to indicate that the Account Owners have surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner Adolf Bauer died in Germany in 1936, and that Account Owner Clara Bauer was deported to the Lodz ghetto in 1941, where she perished on 8 May 1945; that there is no record of the payment of the Account Owners' accounts to them, nor any record of a date of closure of the 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 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holder, 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. 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 Owners were her grandparents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one custody account and one 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 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value for the two accounts is SF 15,140.00. 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 189,250.00.

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 Claimant is representing her brother, [REDACTED 2]. Accordingly, the Claimant and her brother are each entitled to one-half of the total award amount.

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 claims 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
31 March 2005