

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Irma Baum

Claim Number: 400626/MI¹

Award Amount: 679,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Irma Baum and Richard Baum.² This certified award is to the published accounts of Irma Baum (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”) and to the published accounts of Irma Baum at the Zurich branch of the [REDACTED] (“Bank II”) (together the “Banks”).

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 his relative, Irma Baum, who lived in Austria and was married to his father’s first cousin, Richard Baum. The Claimant indicated that his relatives, who were Jewish, owned and operated a clothing manufacturing business and retail store. The Claimant further indicated that all of his relatives perished during the Second World War, and that he believed Irma and Richard Baum did, as well.

The Claimant indicated that he was born on 4 October 1923.

¹ In 1999, [REDACTED] (the “Claimant”) submitted an Initial Questionnaire (“IQ”), numbered ENG-0551034, 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 783985. The CRT will treat this claim in a separate determination.

² The CRT will treat the claim to an account owned by Richard Baum in a separate determination.

The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting his entitlement to his own Swiss bank account.³

Information Available in the Banks’ Records

Bank I

Bank I’s record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Irma Baum, who resided in Vienna, Austria. Bank I’s record indicates that the Account Owner held one custody account, numbered L43752, and one demand deposit account.

Bank I’s record indicates that custody account L43752 was closed on 6 September 1938, and that the demand deposit account was closed on 20 January 1939. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in Bank I’s record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

Bank II

Bank II’s records consist of a customer card, a deposit form, a spousal consent form, and printouts from Bank II’s database. According to these records, the Account Owner was *Frau* Irma Baum, who resided at Mariannengasse 13 in Vienna IX. These records, which contain the Account Owner’s signature, indicate that the Account Owner’s husband died on 17 July 1929. Bank II’s records indicate that the Account Owner held one custody account, numbered 32467, and a demand deposit account. According to these records, on 5 June 1931, the Account Owner deposited 4% *Schweiz.Bundesbahnen 1931* bonds with a nominal value of 21,000.00 Swiss Francs (“SF”) in her custody account.

Bank II’s records indicate that custody account 32467 was closed on 30 June 1938, and that the demand deposit account was closed by that date. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in Bank II’s records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

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 Irma Baum, numbered 44385, and dated 15 July 1938, indicating that she was born on 22 February 1882, that she was a widow, and that she lived at Mariannengasse 9 in Vienna IX. According to these records, Irma Baum owned half of *Baum & Elbogen*, a textile and clothing business. The records indicate that Irma Baum owned half of a rental property at Neubaugasse

³ The CRT will treat this claim in a separate determination.

73 in Vienna VII, valued at 33,000.00 Reichsmark (“RM”). The records show that this business was aryanized on 13 January 1939. According to these records, as of 8 December 1938, Irma Baum was assessed flight tax (*Reichsfluchtsteuer*) of RM 21,006.00 on total assets valued at RM 84,027.00. The records further indicate that Irma Baum fled Austria in December 1938, and that she was residing in St. Laurent du Var, France as of 18 July 1939.

The records evidence the existence of two accounts held by Irma Baum at Swiss banks: she reported a demand deposit account at Bank I with a balance of SF 697.20 on 27 April 1938, and a demand deposit account at Bank II with a balance of SF 303.80 on 27 April 1938. She further listed various securities, without specifying where they were deposited, including 4% *Schweizer Bundesbahnen* bonds with a nominal value of SF 35,000.00 and a market value of SF 37,100.00 on 27 April 1938.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s relative’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s country of residence, which matches unpublished information about the Account Owner contained in the Banks’ records. The CRT notes that the signatures in Bank II’s records and in the 1938 Census records match, and that the Claimant identified the type of business owned by the Account Owner, which is consistent with the information contained in the Account Owner’s 1938 Census records.

The CRT notes that the name Irma Baum appears only once on the list of Account Owners Published in 2005 (the “2005 List”). The CRT further notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to his own Swiss bank account, prior to the publication of the 2005 List. This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears his same family name, but rather on a direct family relationship that was known to him before the publication of the 2005 List. It also indicates that the Claimant had reason to believe that his family owned Swiss bank accounts prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the Claimant indicated that his relative and her husband probably perished during the Second World War, but that Bank II’s records and the 1938 Census records indicate that the Account Owner’s husband died prior to the Second World War, and that the Account Owner fled to France. The CRT notes that the Claimant was a minor when his father’s cousin’s wife fled Austria, that the rest of his family perished in the Holocaust, and that it is plausible that the Claimant would not know the exact details regarding his father’s extended family.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner. Taking all 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 she resided in Nazi-controlled Austria. The CRT notes that the Account Owner was required to register her assets pursuant to the 1938 Census, and that she was required to pay flight tax before fleeing Austria.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father's cousin's wife. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Banks' records; that the Claimant shares the same family name as the Account Owner; and that the Claimant filed an IQ with the Court in 1999, identifying the Account Owner's family name, prior to the publication of the 2005 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 a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported Swiss accounts in the 1938 Census; that the Account Owner lived in Austria until she fled to France, and therefore could not have repatriated the accounts without losing ultimate control over its proceeds; and given the application of Presumptions (d), (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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his father's cousin's wife, 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 claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account at Bank I and one custody account and one demand deposit account at Bank II. The CRT determines that the demand deposit account referenced contained in the Banks' records and the demand deposit accounts declared in the Account Owner's 1938 asset declaration to be the same accounts.

With respect to the custody account L43752 held by the Account Owner at Bank I, 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 custody account was SF 13,000.00.

With respect to the Account Owner's two demand deposit accounts, the Account Owner's 1938 Census declaration indicates that the value of the demand deposit account at Bank I was SF 697.20 as of 27 April 1938, and the value of the demand deposit account at Bank II was SF 303.80 as of 27 April 1938. The CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all of her assets, or understated their value, in the belief that this might help her safeguard some of them. Pursuant to Article 29 of the Rules, if the amount in a demand deposit account is 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. In this case, the CRT does not find that the value of the demand deposit account at either Bank I or Bank II indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's demand deposit account at Bank I and Bank II shall be determined to be SF 2,140.00 each, for a combined value of SF 4,280.00 for the two demand deposit accounts.

With respect to custody account 32467 held by the Account Owner at Bank II, Bank II's records indicate that, on 5 June 1931, the Account Owner deposited 4% *Schweiz. Bundesbahnen 1931* bonds, with a nominal value of SF 21,000.00, in her account. The 1938 Census records indicate that, on 27 April 1938, the Account Owner held 4% *Schweizer Bundesbahnen* bonds at an unidentified bank, with a nominal value of SF 35,000.00 and a market value of SF 37,100.00. In the absence of plausible evidence to the contrary, and consistent with these records referring to the same types of bonds, the CRT concludes that it is plausible that the bonds declared by the Account Owner in the 1938 Census were held in custody account 32467 at Bank II, and that sometime between 5 June 1931 and 27 April 1938, the Account Owner deposited the same type of bonds worth an additional SF 14,000.00 in that account. According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, bonds are valued at their market value if the market value is above the nominal value as of the

date that the account owner is deemed to have lost control of the account. Accordingly, the CRT determines the value of these bonds, and therefore of custody account 32467 at Bank II, to be SF 37,100.00.

The historic value and, where applicable, the Article 29 values of the Account Owner's four accounts therefore total SF 54,380.00. The current value of the amount of the award is determined by multiplying the historic value and, where applicable, the balances as determined by Article 29, by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 679,750.00.

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
27 February 2007