

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of A. Bernay

Claim Number: 213442/WT

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née Jekel (the “Claimant”) to the account of Gustav Berney. This Award is to the unpublished account of A. Bernay (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).¹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 Owner as her husband, Dr. Arnold Berney, who was born in 1897 in Mainz, and was married to her on 25 February 1940 in Jerusalem, Palestine (today Israel). The Claimant indicated that her husband, who was Jewish, was the son of [REDACTED], who was born in Eberstein, Germany in 1864 and perished in Theresienstadt in 1942, and [REDACTED], née [REDACTED], who was born in Darmstadt, Germany in 1874 and who died in Mainz in 1938. The Claimant indicated that her husband died in 1943 in Jerusalem. The Claimant stated that before he died, her husband told her that his family had deposited money in a Swiss bank.

In support of her claim, the Claimant submitted copies of: (1) her marriage certificate, indicating that Dr. Arnold Berney and [REDACTED] were married on 25 February 1940 in Jerusalem; that Arnold Berney was forty-two years old, a university professor, and the son of [REDACTED] and [REDACTED] who resided in Germany; and that [REDACTED] was twenty-three years old, a seamstress, and the daughter of [REDACTED] and [REDACTED], who resided in Jerusalem; and (2) a detailed family tree.

¹ The CRT did not locate an account belonging to Gustav Berney in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

The Claimant indicated that she was born on 27 July 1916 in Frankfurt am Main, Germany.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Gustav Berney.²

Information Available in the Bank's Records

The Bank's records consist of an extract from a list of accounts that were transferred to the Bank's profit and loss account, documents relating to the Bank's internal survey of dormant accounts conducted in 1959, a bank statement, and printouts from the Bank's database. According to these records, the Account Owner was A. Bernay. The words "St. Cindrey" appear next to the Account Owner's name on the list, in a place where an account owner's domicile is usually indicated. The Bank's records indicate that the Account Owner held one demand deposit account. The Bank's records indicate that the account was transferred on 26 February 1937 to a collective account for dormant assets. The amount in the account on the date of its transfer was 10.15 Swiss Francs ("SF"). The Bank's records further indicate that the account was transferred to the Bank's profit and loss account on 23 January 1964. The amount in the account on its date of closure was SF 10.15.

The CRT's Analysis

Identification of the Account Owner

The Claimant's husband's name matches the unpublished first name initial and surname of the Account Owner contained in the Bank's record.³ The CRT notes that the words "St. Cindrey" appear on Bank's records next to the Account Owner's name in a place where an account owner's residence is usually located. However, despite extensive searches by the CRT, no place name "St. Cindrey" could be located. It is not clear to what these words refer. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his first name initial and last name.

In support of her claim, the Claimant submitted documents, including her marriage certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 23 November 1864 and place of birth was Mainz, Germany, which corresponds with information about the family of the Account Owner provided by the Claimant. The database is a compilation of names from various

² The CRT will treat the claim to this account in a separate determination.

³ The CRT notes that the Claimant indicated that her relative's last name was spelled "Berney" and that the Bank's records indicate that the Account Owner's last name was spelled "Bernay." However, given that "Berney" and "Bernay" are pronounced identically, and that the Bank's records include only printouts from the Bank's database, and no original documents that were reviewed or signed by the Account Owner, the CRT concludes that this discrepancy does not affect the Claimant's identification of the Account Owner.

sources, including the Yad Vashem Memorial of Israel. The CRT notes that there are no other claims to this account. 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, that he emigrated to Palestine from Germany and that his father perished in 1942 at Theresienstadt. The Claimant also submitted her marriage certificate, indicating that her husband's parents resided in Nazi Germany.

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 the Claimant's husband. These documents include her own marriage certificate. 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 that the account was transferred to a suspense account on 26 February 1937 and that it was taken into bank profits on 23 January 1964.

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 her husband, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 26 February 1937 was SF 10.15. 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. The current value of the amount of the award is determined by multiplying the balance 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 26,750.00.

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 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
15 November 2007