

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Maria Victoria Altmann
also acting on behalf of Antoinette Ruth Bentley, née Pick,
formerly Antoinette Ruth Bloch-Bauer, and Peter John Gerald Bentley,
formerly Peter John Gerald Bloch-Bauer
represented by E. Randol Schoenberg

in re Accounts of Leopold and Antoinette Bloch-Bauer

Claim Number 215866/GP¹

Award Amount: 98,750.00 Swiss Francs

This Certified Award is based upon the claim of Maria Victoria Altmann, née Bloch-Bauer, (the “Claimant”) to the unpublished account of Ferdinand Bloch-Bauer.¹ This Award is to the published accounts of Leopold Bloch-Bauer (“Account Owner Leopold Bloch-Bauer”) and Antoinette Bloch-Bauer (“Account Owner Antoinette Bloch-Bauer”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).²

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Leopold Bloch-Bauer as her brother, Leopold Lionel Garrick Bentley, formerly Bloch-Bauer (“Leopold Bloch-Bauer”). In a telephone conversation with the CRT on 4 August 2004 at the suggestion of the Claimant’s representative, the Claimant’s nephew, Peter John Gerald Bentley, formerly Bloch-Bauer (“Peter

¹ The CRT did not locate an account belonging to the Claimant’s relative, Ferdinand Bloch-Bauer, 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 should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources. The CRT will treat the claim to the account of Ferdinand Bloch-Bauer in a separate decision.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP list”), Leopold Bloch-Bauer is referred to as Leopold Bloch-Bauer and Leopold Bloch, who are each indicated as owning one account. Upon careful review, the CRT has concluded that the Banks’ records evidence that the Account Owners were Leopold Bloch-Bauer and Antoinette Bloch-Bauer who jointly held two accounts.

Bentley”) stated that Leopold Bloch-Bauer was born on 6 November 1905 in Vienna, and was married to Antoinette Bloch-Bauer, née Pick, in 1929 in Vienna. Peter Bentley further stated that he was born on 17 March 1930 and was the only child of Leopold and Antoinette Bloch-Bauer. In addition, Peter Bentley stated that Leopold Bloch-Bauer, who was a Jewish industrialist, studied at a school of textile engineering in Reutlingen, Germany in the early 1930’s, and lived there with his wife and child. According to Peter Bentley, following this period, the family returned to Vienna, where they all remained until the night of the *Anschluss* (the incorporation of Austria into the Reich). Peter Bentley indicated that, on the night of the *Anschluss*, his mother, Antoinette Bloch-Bauer, fled with him across the Austrian border to Switzerland. Peter Bentley stated that, after following the car carrying his his wife and child to ensure they reached the border safely, Leopold Bloch-Bauer returned to Vienna, where he was arrested by the Gestapo but released following the intervention of a close family friend. Peter Bentley further indicated that, upon successfully escaping from Austria, Leopold Bloch-Bauer was reunited with his family in Zurich, from where they traveled to London and then on to Canada. According to Peter Bentley, his parents decided to change the family name from Bloch-Bauer to Bentley in 1938, when applying for Canadian citizenship. In addition, Peter Bentley indicated that his family remained in Canada since that time, and that Leopold Bloch-Bauer died in February 1986 in Vancouver. Finally, Peter Bentley stated that he acts as Power of Attorney holder for his mother, who is incapacitated.

The Claimant submitted the inheritance certificate of her uncle, Ferdinand Bloch-Bauer, which indicates that the Claimant was a descendant of Ferdinand Bloch-Bauer’s brother Gustav Bloch-Bauer, and that Lionel Garrick Bentley was born on 7 November 1905 and was a descendant of Gustav Bloch-Bauer.³ Peter Bentley submitted the change of name deed of Leopold Lionel Garrick Bloch-Bauer indicating that he changed his name to Leopold Lionel Garrick Bentley on 10 November 1938; and a copy of the notice of name change that appeared in a newspaper, indicating that Leopold Bloch-Bauer and Antoinette Bloch-Bauer had changed their last names to Bentley and that they had also changed the last name of their child, Peter John Gerald Bloch-Bauer, to Bentley. The Claimant indicated that she was born on 18 February 1896 in Vienna, Austria. The Claimant represents her nephew, Peter Bentley, who was born on 17 March 1930 in Vienna.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Ferdinand Bloch-Bauer, who resided in Vienna.

Information Available in the Bank's Records

The Bank’s records consist of a printout of a database prepared by 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”) of accounts reported during the 1945 Freeze of assets held in Switzerland by nationals of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), as well as internal lists of accounts and working papers prepared by the Bank in the course of a

³ The CRT notes that the Claimant identified her brother as Leopold Lionel Garrick Bentley and that her nephew gave his date of birth as 6 November 1905, but concludes that the reference is to the same person.

survey of assets, which had been held in Switzerland by foreigners or stateless persons who were, or who were believed to have been, victims of racial, religious or political persecution; this survey was conducted by Swiss banks pursuant to a Federal decree in 1962 (the "1962 Survey"). The Bank's records indicate that the Account Owners were Leopold and *Frau* (Mrs.) Antoinette Bloch-Bauer, who resided at Kaiserstrasse 88 in Reutlingen, Germany. The auditors who carried out the ICEP Investigation determined that the Account Owners had a connection to Austria, but did not indicate the type of this connection.

The Bank's records indicate that the Account Owners held one account, the type of which cannot be ascertained. The balance of the account on 17 February 1945 was 318.00 Swiss Francs ("SF"), at which time it was blocked in the 1945 Freeze. The Bank's record further indicates that the account was unblocked on 27 March 1954.

The Bank's record does not show when the account was closed, or to whom it was paid. The auditors who carried out the ICEP Investigation did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owners or their heirs closed the account and received the proceeds themselves.

The auditors who carried out the ICEP Investigation determined that the Account Owners held another account of unknown type. The Bank's records indicate that the account was opened on 10 November 1929 and that the last known contact with the Account Owners was in 1932. The account was considered by the Bank for reporting in the 1962 Survey, but eventually was not reported. According to the Bank's records, the account was closed to fees on 15 November 1963. The amount in the account on the date of its closure was SF 24.00.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owners, despite the fact that only the name of Account Owner Leopold Bloch-Bauer was published in the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). The name and city and countries of residence of the Claimant's brother match the published name and city and countries of residence of Leopold Bloch-Bauer and Leopold Bloch. Peter Bentley indicated that his parents lived in Austria, which matches published information in the Banks' records. In addition, Peter Bentley correctly identified Account Owner Antoinette Bloch-Bauer, which matches unpublished information contained in the Banks' records. Peter Bentley also indicated that his parents lived in Reutlingen, which matches published information about Account Owner Bloch-Bauer contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including the change of name deed of Leopold Lionel Garrick Bloch-Bauer, indicating that he changed his name to Leopold Lionel Garrick Bentley; and a copy of the notice of name change that appeared in the paper, indicating

that Leopold Bloch-Bauer and Antoinette Bloch-Bauer had changed their last names to Bentley, providing independent verification that the persons who are claimed to be the Account Owners had the same name recorded in the Banks' records as the name of the Account Owners.

The CRT notes that the other claims to these accounts were disconfirmed because those Claimants provided a last name or city of residence that differed from the last name and city of residence of Account Owner Leopold Bloch-Bauer, and did not identify Account Owner Antoinette Bloch-Bauer. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. Peter Bentley stated that Account Owner Leopold Bloch-Bauer was Jewish, was arrested by the Gestapo after the *Anschluss* and ordered to leave Austria. Peter Bentley further stated that Account Owner Antoinette Bloch-Bauer fled Austria on the night of the *Anschluss*.

The Claimant's Relationship to the Account Owner

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 brother and sister-in-law, and the parents of Peter Bentley. These documents include the inheritance certificate of her uncle Ferdinand Bloch-Bauer, which indicates that both the Claimant and Leopold Lionel Garrick Bentley were descendants of his brother, Gustav Bloch-Bauer; the change of name deed of Account Owner Leopold Bloch-Bauer indicating that he changed his name to Leopold Lionel Garrick Bentley on 10 November 1938; and a copy of the notice of name change that appeared in the paper, indicating that Account Owner Leopold Bloch-Bauer and Account Owner Antoinette Bloch-Bauer had changed their last names to Bentley and that they had also changed the last name of their child, Peter John Gerald Bloch-Bauer, to Bentley. There is no information to indicate that the Account Owners have surviving heirs other than the parties whom the Claimant represents.

The Issue of Who Received the Proceeds

The Bank's records indicate that one of the accounts was closed to fees on 15 November 1963.

With regard to the account blocked in the 1945 Freeze, given that the account still existed in March 1954; that there is no record of the payment of the Account Owner Owners' account to them or their heirs; that there is no record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about the account after the Second World War from Bank I 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 (f), (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 Owners 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Leopold Bloch-Bauer was her brother and Account Owner Antoinette Bloch-Bauer was her sister-in-law, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two accounts of unknown type.

The Bank's records indicate that as of 17 February 1945 the balance of one of the accounts was SF 318.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of this amount 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, to produce an award amount of SF 49,375.00.

The Bank's records further indicate that as of 15 November 1963 the balance of the other account was SF 24.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1 January 1945 and 27 March 1954. Consequently, the adjusted balance of the account at issue is SF 309.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of this amount 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, to produce an award amount of SF 49,375.00.

Thus, the total award amount in this case is SF 98,750.00.

Division of the Award

According to Article 25(1) of the Rules, if an account is a Joint Account and Claimants related to each of the Account Owners have submitted equal claims to the Account, it shall be presumed that each Account Owner was the owner of an equal share of the Account. This rule shall apply even if one of the Account Owners is still alive. Additionally, according to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case the Claimant is the sister of the Account Owner and represents Antoinette Bentley and Peter Bentley, her sister-in-law and

nephew, who are the co-Account Owner and the son of the Account Owners respectively. Accordingly, as the co-Account Owner and descendant of the Account Owners, the Claimant's sister-in-law and nephew have better entitlement than the Claimant. Account Owner Annette Bloch-Bauer is still alive and is the spouse of Account Owner Leopold Bloch-Bauer and is therefore entitled to one half the accounts as an Account Owner in her own right and a further one quarter of the accounts as the spouse of Account Owner Leopold Bloch-Bauer. Peter Bentley is entitled to one quarter of the accounts as a descendant of Leopold Bloch-Bauer. Consequently Antoinette Bentley is entitled to three quarters of the total award amount and Peter Bentley to one quarter.

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
13 October 2004