

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], [REDACTED 3],
[REDACTED 4] and [REDACTED 5]
represented by Dr. Walter Friedrich

in re Account of Josef Böck-Greissau and Theodora Böck-Greissau

Claim Numbers: 501104/MBC; 501114/MBC

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 Josef Böck-Greissau (“Account Owner Josef Böck-Greissau”) and Theodora Böck-Greissau (“Account Owner Theodora Böck-Greissau”) (together, the “Account Owners”) at the Basel 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 two Claim Forms identifying the Account Owners as his father, [REDACTED], who was born on 5 April 1893 in Liesingthal, Austria, and his mother, [REDACTED], [REDACTED], who was born on 6 April 1896 in Regau, Austria. The Claimant indicated that his parents were married on 27 May 1920 in Vienna, and that they had four children: [REDACTED 2], [REDACTED 3], [REDACTED], and [REDACTED 1] (the Claimant). The Claimant indicated that his father was a director of a company that produced printing machines, and that his mother, who was half-Jewish, was a painter. The Claimant further indicated that his family resided at Jagerhausgasse 19 in Mödling, Austria. In a telephone conversation with the CRT on 12 January 2005, the Claimant explained that his father’s business was important to the Nazi regime, and his connections allowed him to prevent his wife from being deported to a concentration camp. The Claimant indicated that his mother was not allowed

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”), Josef Böck-Greissau and Theodora Böck-Greissau are indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

to display any of her artwork during the Second World War because of her Jewish background. The Claimant further indicated that he was unable to study medicine as a student-soldier, a preferred status, because he was one-quarter Jewish. According to the Claimant, he was forced to serve in the army, but could not be promoted because of his Jewish background. The Claimant indicated that his mother died on 4 March 1951 and that his father died on 21 April 1953, both in Vienna. In support of his claim, the Claimant submitted his baptism certificate, indicating that his parents were [REDACTED] and [REDACTED], [REDACTED], and that he was born in Austria.

The Claimant indicated that he was born on 11 March 1921 in Vienna, Austria. The Claimant is representing his sisters, [REDACTED 2], née [REDACTED], and [REDACTED 3], née [REDACTED], and the children of his deceased sister, [REDACTED], née [REDACTED]: [REDACTED 4] and [REDACTED 5].

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owners were Josef C. Böck-Greissau and Theodora Böck-Greissau, [REDACTED], who resided at Jagerhausgasse 19 in Modling, Austria. The Bank's records indicate that the Account Owner held one custody account and one demand deposit account, both numbered [REDACTED]. The Bank's records indicate that the accounts were opened on 2 February 1931.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents include an acknowledgment of receipt of regulations, and indicate that Account Owner Josef Böck-Greissau, was from Mödling and Graz, Austria. These records also include signature samples for the Account Owners.

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. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 parents' names and city and country of residence match the published names and city and country of residence of the Account Owners. The Claimant identified his parents' street address, which matches unpublished information about the Account Owners contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his baptism certificate, indicating that his parents were [REDACTED] and [REDACTED] and that he was born in Austria, providing independent verification that the people who are claimed to be the Account Owners had the same names and resided in the same country recorded in the Bank's records as the names and country of residence of the Account Owners. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner [REDACTED] was a Victim of Nazi Persecution. The Claimant stated that Account Owner [REDACTED] was half-Jewish and required intervention from her husband to prevent her deportation to a concentration camp. The Claimant indicated that Account Owner [REDACTED], who was a painter, was unable to display any of her work during the Second World War. According to the Claimant, he was unable to study medicine as a student-soldier, a preferred status, because he was one-quarter Jewish. Furthermore, the Claimant stated that he was required to join the army, but was unable to be promoted because he was part Jewish.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's parents. These documents include his baptism certificate, indicating that his parents were [REDACTED] and [REDACTED]. There is no information to indicate that the Account Owners have surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner remained in Nazi-controlled Austria during the Second World War; 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 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 and the parties whom he represents. 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 Owners were his parents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one demand deposit account and one custody 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, for a combined average value of SF 15,140.00 for the two accounts at issue. 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 his sisters, [REDACTED 2] and [REDACTED 3], and the children of his deceased sister, [REDACTED]: [REDACTED 4] and [REDACTED 5]. Accordingly, the Claimant, [REDACTED 2], and [REDACTED 3], as the children of the Account Owners, are each entitled to one-quarter of the total award amount. [REDACTED 4] and [REDACTED 5], as the children of [REDACTED], the Account Owners' child, are each entitled to one-eighth 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 his claims 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
21 June 2006