

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to the Estate of Claimant [REDACTED 2],¹
both represented by *Hoerner Bank AG*

and to Claimant [REDACTED 3]
represented by Erez Bernstein

in re Account of Joseph Bondi

Claim Numbers: 221204/HS; 221205/HS; 221369/HS; 501812/HS

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) to the published accounts of Samuel Bondi, Helene Bondi, and Gabriele Bondi; and upon the claim of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published account of Joseph Hirsch.² This award is to the unpublished account of Joseph Bondi (the “Account Owner”), over which Rosa Bondi, née Hirsch, and Arthur Bondi (the “Power of Attorney Holders”) held power of attorney, at the Basel branch of [REDACTED] (the “Bank”).³

All awards are published. Where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ The legal representative of Claimant [REDACTED 2] (“ Claimant [REDACTED 2]”) informed the CRT that Claimant [REDACTED 2] died on 10 September 2005.

² The claims to these accounts will be treated in separate decisions.

³ 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”), Joseph Bondi and Arthur Bondi appear as power of attorney holders on accounts belonging to Gabriele Bondi, Helene Bondi, Samuel Bondi, Helene Hirsch, and Joseph Hirsch. The name of Rosa Bondi, née Hirsch, was not published on the ICEP List.

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who is Claimant [REDACTED 1]'s maternal uncle, submitted substantially similar Claim Forms regarding Claimant [REDACTED 2]'s parents, [REDACTED] and [REDACTED], née [REDACTED], and regarding Claimant [REDACTED 2]'s sister, [REDACTED], née [REDACTED], who was Claimant [REDACTED 1]'s mother. Additionally, Claimant [REDACTED 3] submitted a Claim Form regarding her maternal grandfather, [REDACTED], whom she identified as the brother of Claimant [REDACTED 2]'s mother, [REDACTED]. Claimant [REDACTED 3] identified Joseph Bondi as the brother of [REDACTED] and the husband of [REDACTED], née [REDACTED], the latter being the paternal aunt of [REDACTED] and [REDACTED] (that is, [REDACTED] was the sister of [REDACTED], who was the father of [REDACTED] and [REDACTED]).

Therefore, the information provided by the Claimants indicates that Joseph Bondi was the paternal uncle of Claimant [REDACTED 2], the great-uncle of Claimant [REDACTED 1], and the husband of the great-great aunt of Claimant [REDACTED 3].

Neither Claimant [REDACTED 2] nor Claimant [REDACTED 1] provided information about Joseph Bondi. However, according to the information provided by Claimant [REDACTED 3], as well as additional research conducted by the CRT,⁴ Joseph Bondi, who was Jewish, was born on 8 August 1872 in Mainz, Germany. According to these sources, Joseph Bondi was married on 20 August 1900 in Halberstadt, Germany, to [REDACTED] of Halberstadt, and the couple had two children, [REDACTED], who was born in 1905 in Vienna, Austria, and died there in 1927; and [REDACTED], who was born in 1903 in Vienna. Claimant [REDACTED 3] indicated that Joseph Bondi died in New York, the United States, on 28 April 1942, and that his wife, [REDACTED], died there on 21 August 1950.

Additionally, according to the CRT's research and the information provided by Claimant [REDACTED 3], [REDACTED], who was married to [REDACTED], had two children, [REDACTED] and [REDACTED]; and he died in 1985 in Vienna.

In support of their claims, Claimant [REDACTED 2] and Claimant [REDACTED 1] submitted documents, including: (1) [REDACTED]'s birth certificate, identifying her parents as Dr. [REDACTED] and [REDACTED], née [REDACTED], and indicating that she was born on 29 March 1915 in Vienna; (2) Claimant [REDACTED 2]'s birth certificate, identifying his parents as Dr. [REDACTED] and [REDACTED], née [REDACTED], and indicating that he was born on 1 November 1919 in Vienna; and (3) Claimant [REDACTED 1]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED], and indicating that he was born on 8 January 1956 in New York.

In support of her claim, Claimant [REDACTED 3] submitted documents, including: (1) the birth certificate of Claimant [REDACTED 3]'s mother, [REDACTED], indicating that she was born in Berlin, Germany, in 1930 to [REDACTED] and [REDACTED]; (2) Claimant [REDACTED 3]'s birth certificate, identifying her mother as [REDACTED], née [REDACTED], and

⁴ The CRT located the Bondi family tree, which lists basic biographic details, at www.loebtree.com/bondimm.html.

indicating that [REDACTED 3] was born on 8 October 1960 in Haifa, Israel; and (4) Claimant [REDACTED 3]'s marriage certificate, dated in 1987 in Kiryat Bialik, Israel, indicating that her maiden name was [REDACTED], and that her mother's first name was [REDACTED].

Claimant [REDACTED 2] indicated that he was born on 1 November 1919 in Vienna. Claimant [REDACTED 1] indicated that he was born on 8 January 1956 in New York. Claimant [REDACTED 3] indicated that she was born on 8 October 1960 in Haifa. Claimant [REDACTED 2]'s legal representative informed the CRT that Claimant [REDACTED 2] died on 10 September 2005 in Cambridge, the United Kingdom.

Information Available in the Bank's Records

The Bank's records originally available to the CRT pertained to accounts held by members of the Bondi and Hirsch families other than Joseph Bondi. 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 the accounts belonging to members of the Bondi and Hirsch families ("Voluntary Assistance"). The Bank provided the CRT with additional documents pertaining to the aforementioned accounts and to an account held by Joseph Bondi.

The records pertaining to Joseph Bondi are almost illegible. They include a receipt for opening a custody account, two power of attorney forms, a form regarding Bank correspondence, and a list of account owners. According to these records, the Account Owner was Joseph Bondi of Vienna II, Austria. These records indicate that the Account Owner opened a custody account, numbered 33266, in 1929. Additionally, according to these records, *Frau* (Mrs.) [REDACTED], née [REDACTED], was granted power of attorney over the account in 1929; and Dr. [REDACTED] of Praterstrasse 9, Vienna II, was granted power of attorney over the account in 1930. A list of account owners in the Bank's records shows the names Dr. Arthur and Dr. [REDACTED] associated with custody account 33266. However, there is no other indication of Dr. [REDACTED]'s involvement with this account. These records also indicate that the Account Owner requested that the Bank hold correspondence as of 8 January 1935.

The Bank's records do not indicate when this account was closed, nor do they indicate the value of the account. There is no evidence in the Bank's records that the Account Owner, the Power Attorney Holders, or their heirs closed the account 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 Dr. Joseph Bondi, numbered 29224. These records, which were signed by Dr. Joseph Bondi in Vienna on 14 July 1938, indicate that he was born on 8 August 1872, married to [REDACTED],

née [REDACTED], and that both of them were Jewish. According to these records, Dr. Joseph Bondi was a gynecologist, and he resided at Praterstrasse 9 in Vienna II.

These records indicate that Dr. Joseph Bondi held various domestic and foreign securities, with an estimated value of 3,385.17 Reichmark (“RM”) as of 27 April 1938 at the bank *Österreichische Kreditanstalt* in Vienna. Additionally, according to the 1938 Census, Dr. Joseph Bondi owned two life insurance policies worth RM 30,365.47, and various medical instruments, household goods, including jewelry and furniture, as well as cash and local bank accounts worth a total of RM 5,323.75. These records make no mention of assets held in a Swiss bank account.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner and the Power of Attorney Holders. The names of their relatives match the published names of the Account Owner and Power of Attorney Holder [REDACTED], and the unpublished name of Power of Attorney Holder [REDACTED], née [REDACTED].⁵ Further, the CRT’s additional research confirms the familial relationship among the Account Owner and the Power of Attorney Holders, which is consistent with their connection vis-à-vis a single account. This additional research also shows that the Account Owner’s children were born in Vienna, which matches the city of residence of the Account Owner and the Power of Attorney Holders found in the Bank’s records and in the 1938 Census records. The CRT also notes that the signature of Joseph Bondi in his 1938 Census records matches the Account Owner’s signature in the Bank’s records.

Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The information about the Account Owner in the 1938 Census indicates that the Account Owner was a Victim of Nazi Persecution. According to these records, the Account Owner and his wife, both of whom were Jewish, resided in Vienna after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), and the Account Owner was obliged by the Nazi authorities to submit a 1938 Census form declaring all of his wealth. The CRT does not possess any information about the Account Owner’s departure from Nazi Austria (which occurred at some

⁵ As noted previously, the Account Owner and Power of Attorney Holder Arthur Bondi appear on the ICEP List as power of attorney holders on accounts held by other members of the Bondi and Hirsch families. The name of Rosa Bondi, née Hirsch, was not published on the ICEP List.

point after he signed his 1938 Census declaration in Vienna in July 1938), or his arrival in the United States, apart from the information that he died in New York in 1942.

The Claimants' Relationship to the Account Owners

The information and documents submitted by the Claimants and the CRT's additional research plausibly demonstrate that the Claimants are related to the Account Owner. The Claimants submitted: birth certificates belonging to [REDACTED], Claimant [REDACTED 2], and Claimant [REDACTED 1], which indicate that they are descendants of [REDACTED]; and birth certificates for Claimant [REDACTED 3] and her mother, as well as Claimant [REDACTED 3]'s marriage certificate, showing that Claimant [REDACTED 3] is a descendant of [REDACTED]. Furthermore, the additional research conducted by the CRT indicates that [REDACTED] was the brother of the Account Owner and that [REDACTED] was the brother of the Account Owner's wife, Power of Attorney Holder [REDACTED].

The CRT notes that the Account Owner may have surviving relatives other than the Claimants. However, because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him or to the Power of Attorney Holders, nor any record of a date of closure of the account; that the Account Owner died before the end of the Second World War; that the Account Owner's heirs would not have been able to obtain information about the account after the 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 Owner, the Power of Attorney Holders, 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 Claimant [REDACTED 2] and Claimant [REDACTED 1]. First the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly identified the Account Owner as Claimant [REDACTED 2]'s paternal uncle and Claimant [REDACTED 1]'s great-uncle. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders, or their heirs received the proceeds of the claimed account.

The CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 1], as descendants of the Account Owner's parents, have a better entitlement than Claimant [REDACTED 3], who is a descendant of the parents of the wife of the Account Owner.

Amount of the Award

In this case, the Account Owner held one custody account of unknown value. Pursuant to Article 29 of the Rules, when the value of an account is unknown, 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 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner’s spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner’s parents who have submitted a claim, in equal shares by distribution. In this case, the Account Owner is the uncle of Claimant [REDACTED 2] and the great-uncle of Claimant [REDACTED 1]. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 1] are each entitled to one-half of the total award amount. As indicated above, Claimant [REDACTED 3] is not entitled to share in the award.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
18 December 2008