

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Accounts of Max Bonnem

Claim Number: 501787/HB¹

Award Amount: 265,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Max Bonnem (the “Account Owner”), over which Elisabeth Bonnem (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).²

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 a paternal relative,³ Max Bonnem, who was born on 26 June 1887 in Oberstein, Germany, and identifying the Power of Attorney Holder as Max Bonnem’s wife, Elisabeth Bonnem, née Oppenheimer, who was born on 21 February 1899 in Fuerth in Bayern, Germany. According to the Claimant, Max and

¹ Claimant [REDACTED] (the “Claimant”) submitted one additional claim, which is registered under the Claim Number 400551. In a separate decision, the CRT treated the Claimant’s claim to the account of Siegfried Reinemann. See *In re Account of Siegfried Reinemann* (approved on 14 September 2007).

² The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution (“ICEP” or the “ICEP List”), Max Bonnem and Elisabeth Bonnem are each listed as the owners of one account. Upon careful review, the CRT has determined that Elisabeth Bonnem is not an account owner, but rather the power of attorney holder over the accounts of Max Bonnem. The CRT has further determined that Max Bonnem held a total of four accounts, as indicated above.

³ The Claimant did not identify the exact nature of the familial relationship between the Account Owner and herself. However, the Claimant submitted to the CRT Yad Vashem pages of testimony submitted in 1977 by her father, indicating that her father had stated in 1977 that Max Bonnem and Elisabeth Bonnem, née Oppenheimer, were “family members.” The CRT also notes that as indicated above, Yad Vashem records further indicate that the Claimant’s father submitted another record regarding Elisabeth Bonnem in 1957, indicating that Elisabeth Bonnem was the Claimant’s father’s relative.

Elisabeth Bonnem, who were Jewish, resided in Berlin, Germany and had a son, [REDACTED], who was born on 30 July 1924 in Berlin.

The Claimant indicated that Max Bonnem was killed by the Nazis on 10 December 1937 in Berlin, and that his wife Elisabeth Bonnem and their son [REDACTED] were deported to Lodz, Poland, where they both perished in 1942.

In support of her claim, the Claimant submitted: (1) her own birth certificate, indicating that [REDACTED] was born on 27 November 1938 in Tel Aviv, Israel, and that her father's name was [REDACTED]; and (2) Yad Vashem pages of testimony submitted by [REDACTED] (the Claimant's father) in 1977 concerning Max Bonnem, Elisabeth Bonnem, née Oppenheimer, and [REDACTED], indicating that [REDACTED] was a member of these three individuals' family, that Max and Elisabeth Bonnem were married, that all three family members resided in Berlin, that [REDACTED]'s parents were Max and Elisabeth Bonnem, that Max Bonnem was murdered on 10 December 1937 by Nazis in Berlin, and that Elisabeth and [REDACTED] were both deported to Poland, where they perished.

The Claimant indicated that she was born on 27 November 1938 in Palestine (today Israel).

Information Available in the Bank's Records

The Bank's records consist of an account opening contract, a custody account transfer contract, a power of attorney form, and printouts from the Bank's database. According to these records, the Account Owner was *Herr* (Mr.) Dr. Max Bonnem, and the Power of Attorney Holder was *Frau* (Mrs.) Elisabeth Bonnem, née Oppenheimer, the Account Owner's wife. The Bank's records indicate that the Account Owner was a lawyer, and that he provided the Bank with three different places of residence: Giesebrechtstrasse 20 in Berlin-Charlottenburg 4, Lütowstrasse 43 in Berlin W. 35, and Berlin-Walensee. The records also indicate that the Account Owner stayed at the *Hotel Bella Vista* in Davos, Switzerland, in February 1929.

The Bank's records indicate the existence of four accounts: one custody account, two demand deposit accounts, and one account of unknown type. The records indicate that Elisabeth Bonnem held power of attorney over all of the accounts.

The Bank's records indicate that the custody account, which was numbered 22443, was opened on 29 December 1925. The Bank's records also indicate that on 5 February 1937, securities totaling 3,000.00 Swiss Francs ("SF") were transferred from this account to an unnamed German bank in compliance with German currency regulations. The Bank's records do not specify the name or the value of the securities that were transferred out of the account, nor whether other securities remained in the account after this date. 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 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.

The Bank's records indicate that the Account Owner also owned one demand deposit account held in United States Dollars, and one demand deposit account held in Swiss Francs, both also numbered 22443, and that these accounts were closed on 8 February 1937. The Bank's records do not indicate the value of these accounts.

The Bank's records indicate that the account of unknown type was numbered 5655. The Bank's records do not show when this account was closed, nor do these records indicate the value of this account.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed these accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's relatives' names and city and country of residence match the published names and city and country of residence of the Account Owner and the Power of Attorney Holder. The Claimant identified the marital status of the Account Owner and the Power of Attorney Holder, and the Power of Attorney Holder's maiden name, which match unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including Yad Vashem pages of testimony concerning Max Bonnem and Elisabeth Bonnem, providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names and resided in the same town recorded in the Bank's records as the names and city of residence of the Account Owner and the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes the pages of testimony submitted by the Claimant's father in 1977 concerning Max Bonnem and Elisabeth Bonnem, copies of which were submitted by the Claimant to the CRT. Those pages of testimony indicate that Max Bonnem was born on 26 June 1887 in Oberstein, and that Elisabeth Bonnem, née Oppenheimer, was born on 21 February 1899 in Fuerth in Bayern, Germany, which match the information about the Account Owner and the Power of Attorney Holder provided by the Claimant. The database also contains another page of testimony regarding Elisabeth Bonnem submitted by the Claimant's father in 1957, as well as several other records regarding Elisabeth Bonnem, indicating that her maiden name was Oppenheimer, that she was born on 21 February 1899, that she had lived in Berlin, and that she was deported to the Lodz ghetto, all of which matches the information about the Power of Attorney Holder provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the names Max Bonnem and Elisabeth Bonnem appear only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent

Persons to be probably or possibly those of victims of Nazi persecution (“ICEP” or the “ICEP List”). The CRT notes that there are no other claims to these accounts.

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 and his wife were Jewish, that they resided in Nazi Germany, and that they perished in the Holocaust. As noted above, persons named Max Bonnem and Elisabeth Bonnem were included in the CRT’s database of victims.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner and the Power of Attorney Holder by submitting specific information and documents, demonstrating that the Account Owner and the Power of Attorney Holder were the Claimant’s paternal relatives. These documents include Yad Vashem records submitted by the Claimant’s father, [REDACTED], indicating that Max Bonnem and Elisabeth Bonnem were his family members, and the Claimant’s birth certificate, indicating that her father was [REDACTED]. The CRT notes that the Claimant indicated that she has another surviving relative, but that because she is not represented in the Claimant’s claim, the CRT will not treat her potential entitlement to the Account Owner’s account in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank’s records; that the Claimant’s father filed pages of testimony with Yad Vashem in 1957 and 1977, identifying the relationship between the Account Owner and himself, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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 she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder had both perished in the Holocaust by 1942; that there is no record of the payment of the Account Owner’s accounts to him; that there is no record of a date of closure of the custody account or the account of unknown type; that the Account Owner’s 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 Owner, the Power of Attorney Holder, 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 the Account Owner was her paternal relative, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner, the Power of Attorney Holder, and their heirs did not receive the proceeds of the claimed accounts.

Amount of the Award

In this case the Bank's records indicate that the Account Owner held one custody account, two demand deposit accounts, and one account of unknown type.

With respect to the account of unknown type and the two demand deposit accounts, 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 an account of unknown type was SF 3,950.00, and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the three accounts at issue is SF 8,230.00. 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 an award amount of SF 102,875.00.

With respect to the custody account, the Bank's records indicate that securities totaling SF 3,000.00 were transferred out of that account on 5 February 1937. However, the Bank's records do not indicate whether this was the total value of the account prior to the transfer. Accordingly, the CRT will treat the value of this account as unknown. Based on the ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00. 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, to produce an award amount for this account of SF 162,500.00.

Consequently, the total award amount in this case is SF 265,375.00.

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
26 November 2008