

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Conrad Max Benedict Brann
represented by Jonathan James Palmer, *Mondex International Corporation*

in re Account of Günther Brann

Claim Number: 402255/GO

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Conrad Max Benedict Brann (the “Claimant”) to the published account of Günther Brann (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 the Account Owner as his father, Dr. Günther Brann, who was born on 22 March 1892 in Berlin, Germany, and was married to Lili Appel in 1918. The Claimant indicated that his father, who was Jewish, was a medical practitioner and that he was a professor of dermatology at the University of Rostock, Germany. In a telephone conversation with the CRT, the Claimant stated that his father’s medical practice was suspended in 1933; that his family subsequently fled to Rome, Italy; and that they traveled in early 1939 to Amsterdam, the Netherlands, where they awaited passage to the United States. In addition, the Claimant stated that in April 1939 he was sent to England, but that his parents stayed in Amsterdam, where they went into hiding. Finally, the Claimant indicated that his parents were imprisoned in Westerbork concentration camp until 1943, when they were deported to Auschwitz; his father was shot in Auschwitz on 30 October 1944, and his mother perished there on an unknown date.

In support of his claim, the Claimant submitted copies of: (1) two pages of testimony submitted by the Claimant to Yad Vashem Memorial of Israel in 2003, which indicate that Prof. Dr. Günther Brann was born on 22 March 1892 in Berlin, that he was married to Lili Appel, that Conrad Brann was his son, that they resided in Rome and traveled in early 1939 to Amsterdam, and that in 1943 they were deported to Auschwitz, where Günther Brann was shot on 30 October 1944, and where Lili Brann perished on an unknown date; (2) an excerpt from a book entitled, “Between life and death in Auschwitz” (*Tussen leven en dood in Auschwitz*), indicating that

Günther Brann, who was a doctor, did not want to give up a golden glass to a Nazi guard, and therefore he was beaten and finally shot; and (3) a copy of his own passport, indicating that his name is Kurt Josef Conrad Max Benedictus Brann and that he was born in 1925 in Rostock.

The Claimant indicated that he was born on 20 July 1925 in Rostock.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Günther Brann during their investigation. The documents evidencing the account belonging to Günther Brann were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the “1962 Survey”). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Günther Brann, numbered 29.

These records indicate that the Account Owner was Dr. Günther Brann, who resided as of June 1940 “care of” Schmüller, Stadionkade 105 in Amsterdam, the Netherlands, and as of December 1940 “care of” Ciudt (Lindt), Diezestr. 32/2 in Amsterdam. These records also indicate that the Account Owner held one demand deposit account at the Bank, which held a balance of 588.00 Swiss Francs (“SF”) as of 1 September 1963.

Furthermore, according to the records from the Swiss Federal Archive, the Account Owner's assets were reported to the Registration Office for Assets of Missing Foreigners (the “Registration Office”) (*Meldestelle für Vermögen verschwundener Ausländer*) on 27 February 1964. According to these records, on 2 December 1966, the Guardianship Authority of the City of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) appointed Dr. H. Häberlin as a custodian of this account, as prescribed by the Federal Decree.

These records do not contain any information about the disposition of this account. There is no evidence in the records from the Swiss Federal Archive that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the published name of the Account Owner. The Claimant identified the Account Owner's professional title and city and country of residence, which match unpublished information about the Account Owner contained in the records of the Swiss Federal Archive.

In support of his claim, the Claimant submitted copies of documents, including an excerpt from a book, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the records of the Swiss Federal Archive as the name of the Account Owner. The Claimant also submitted a copy of his passport, which indicates that his name is Kurt Josef Conrad Max Benedictus Brann and that he was born in 1925 in Rostock, providing independent verification that the Claimant's father bore the same family name as the Account Owner and that he resided in Rostock, as the Claimant asserted. The Claimant also submitted an excerpt from a book entitled, "Between life and death in Auschwitz" (*Tussen leven en dood in Auschwitz*), indicating that Günther Brann, who was a doctor, did not want to give up a golden glass to a Nazi guard, and therefore he was beaten and finally shot. The CRT notes that this excerpt is a document which most likely only a family member would possess. 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 he has asserted in his Claim Form.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant in 2003, which indicates that Günther Brann was born on 22 March 1892 in Berlin, Germany, that he traveled from Rome, Italy in early 1939 to Amsterdam, the Netherlands, and that he was imprisoned in Westerbork concentration camp until 1943, when he was deported to Auschwitz, where he was shot on 30 October 1944, which matches the information about the Account Owner 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 there are no other claims to this account.

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 was imprisoned in Westerbork concentration camp until 1943, when he was deported to Auschwitz, and that he was killed in Auschwitz on 30 October 1944.

The Claimant also submitted copies of documents, including a page of testimony submitted by the Claimant in 2003 to Yad Vashem Memorial of Israel, and an excerpt from a book, indicating that Dr. Günther Brann was beaten and shot by the Nazis in Auschwitz on 30 October 1944.

As noted above, a person named Günther Brann was 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 by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include a page of testimony, submitted by the Claimant in 2003 to Yad Vashem Memorial of Israel, which indicate that Conrad Brann was Günther Brann's son. The CRT further notes that the Claimant submitted a copy of his passport indicating that his surname is Brann, providing independent verification that the Claimant bears the same family name as the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate that the account remained open in 1966. Given that the Account Owner was imprisoned in Westerbork concentration camp until 1943, when he was deported to Auschwitz, and that he was killed in Auschwitz on 30 October 1944; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner's heirs would not have been able to obtain information about his account 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 Presumption (h), 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 or his 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 his father 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 Swiss Federal Archive records indicate that the value of the demand deposit account as of 1 September 1963 was SF 588.00. 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 demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 873.00. 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 his claim 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
18 December 2008