

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED 2]

and to Claimant [REDACTED 3]
also acting on behalf of [REDACTED 4], [REDACTED 5],
and [REDACTED 6]

in re Accounts of *Braunsberg & Co. AG*

Claim Numbers: 205864/MBC;² 220604/MBC; 222656/MBC

Original Award Amount: 51,360.00 Swiss Francs

Award Amendment Amount: 53,500.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“[REDACTED 1]”) and Claimant [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published accounts of *Braunsberg & Co. AG* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published, but 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.

Procedural History

On 30 August 2002 the Court approved an Award to [REDACTED 1] for the Account Owner’s accounts (the “August 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 3] and the parties she represents. The CRT notes that although Claimant [REDACTED 3] had filed timely claims to the awarded accounts, her claims were not considered in the August 2002 Award. Subsequent review of Claimant [REDACTED 3]’s claims indicates that she and the persons she represents are entitled to share in the original award amount, as detailed below.

¹ On 30 August 2002, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the accounts of *Braunsberg & Co. AG* (the “August 2002 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 1] submitted an additional claim, which is registered under the Claim Number 205862, which will be treated in a separate determination.

The August 2002 Award

In the August 2002 Award, the CRT determined that the Account Owner held two demand deposit accounts. The CRT further determined that [REDACTED 1] plausibly identified the Account Owner, that he plausibly demonstrated that he and represented party [REDACTED 2] are related to one of the owners of the Account Owner, and that he made a plausible showing that one of the owners of the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it was plausible that neither the Account Owner's owners nor their heirs received the proceeds of their two demand deposit accounts. The CRT noted that the Bank's records indicated the value of the accounts to be SF 169.50 and SF 69.00, respectively, but pursuant to Article 29 of the Rules, because the account values were below the average value of the same or a similar type of account in 1945, the CRT determined that the combined value of the accounts was 4,280.00 Swiss Francs ("SF"), and that the August 2002 Award amount was SF 51,360.00. Finally, the CRT determined that Claimant [REDACTED 1] and represented party [REDACTED 2] were entitled to the entire award amount.

Information Provided by Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted two Claim Forms and supplemental correspondence, identifying the Account Owner as *Braunsberg & Co. AG*, a large textile firm with factories in Germany, which was owned in equal shares by her father, [REDACTED], and his brothers: [REDACTED], [REDACTED], and [REDACTED].

Claimant [REDACTED 3] stated that her parents, who were Jewish, lived in Berlin, Germany, until 1932, and then in Leipzig, Germany, where her mother, [REDACTED], née [REDACTED], died in 1941. Claimant [REDACTED 3] indicated that her father lived in Leipzig until 1942, when he was deported to Theresienstadt, and in early 1945 he was then deported to Auschwitz, where he was murdered. Claimant [REDACTED 3] further stated that her brother, [REDACTED], who was born in 1921, and studied at the textile institute in St. Gallen, Switzerland, before the Second World War, was living in France at the time of the German invasion in 1940, after which he tried to escape to Switzerland but was turned away at the border. Claimant [REDACTED 3] indicated that her brother was imprisoned in a concentration camp in France and later deported to Auschwitz, where he was murdered.

Claimant [REDACTED 3] indicated that she was born on 2 September 1929 in Berlin. Claimant [REDACTED 3] represents her sister, [REDACTED 4], née [REDACTED], who was born on 13 May 1926 in Berlin; and the children of her late sister, [REDACTED], née [REDACTED]: [REDACTED 6], née [REDACTED], who was born on 29 June 1947 in London, the United Kingdom, and [REDACTED 5], who was born on 23 May 1951, also in London.

Claimant [REDACTED 3] previously submitted an Initial Questionnaire with the Court in 1999 indicating that her parents owned large textile factories in Germany and asserting her entitlement to Swiss bank accounts owned by her family.

Information Provided by the Liquidator of *Braunsberg & Co.*

In a letter to the CRT, dated 2 August 2001, Gabriele Riemann, the attorney representing the previous liquidator of *Braunsberg & Co.*, Beate Michaelis, identified the firm's owners as Claimant [REDACTED 3]'s father and uncles. Additionally, the attorney submitted several documents pertaining to the firm, including: a public letter or advertisement, dated August 1939 in Hannover, Germany, and printed on the letterhead of "*Vereinigte Textilfabriken AG, vorm. Braunsberg & Co. AG.*" This document, which states that *Braunsberg & Co.* and its subsidiaries were aryanized on 1 August 1939 pursuant to a decision of the Reich Ministry of Economic Affairs, announces the firm's name change to *Vereinigte Textilfabriken* and lists its new directors.

Gabriele Riemann also submitted a letter from Dr. Heinz Deutscher, a lawyer in Frankfurt am Main, Germany, to a regional court (*Landgericht*) in Berlin, dated 4 December 1959, on the subject of a suit against the German government for restitution of *Braunsberg & Co.*, in which the lawyer indicated that he was also involved with separate bankruptcy proceedings against *Vereinigte Textilfabriken*. Additionally, the attorney submitted a resolution from a local court (*Amtsgericht*) in Charlottenburg, Berlin, dated 21 February 1992, in which Beate Michaelis was appointed as liquidator at the request of [REDACTED].

Finally, in the 2 August 2001 letter to the CRT, Gabriele Riemann provided a list of the heirs of the owners of *Braunsberg & Co.*:

- Heirs of [REDACTED]
 - [REDACTED], son
 - [REDACTED], grandson
 - [REDACTED], née [REDACTED], granddaughter

- Heirs of [REDACTED]
 - [REDACTED], née [REDACTED], daughter
 - [REDACTED], widow and sole heir of his son
 - [REDACTED], descendant of his son [REDACTED]
 - [REDACTED], née [REDACTED], descendant of his son [REDACTED]
 - [REDACTED], widow of his son [REDACTED]
 - [REDACTED], née [REDACTED], descendant of his son [REDACTED]
 - [REDACTED], descendant of his son [REDACTED]

- Heirs of [REDACTED]
 - [REDACTED 3], née [REDACTED], daughter (Claimant [REDACTED 3])
 - [REDACTED 4], née [REDACTED], daughter (represented by Claimant [REDACTED 3])
 - [REDACTED 6], née [REDACTED], granddaughter (represented by Claimant [REDACTED 3])
 - [REDACTED 5], grandson (represented by Claimant [REDACTED 3])

- Heirs of [REDACTED]

-[REDACTED], widower of his daughter [REDACTED], née [REDACTED]

Information Available in the Bank's Records

As detailed in the August 2002 Award, the Bank's records indicate the name and city of operation of the Account Owner. These records indicate that the Account Owner held two demand deposit accounts, one of which was frozen in 1945 and subsequently unfrozen, and the other of which was dormant as of 1959. These records indicate the balances of the accounts, and also indicate that they were presumed closed on an unknown date.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (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.

Claimant [REDACTED 3]'s Identification of the Account Owner

Claimant [REDACTED 3] has plausibly identified the Account Owner. The name and country of the firm owned by Claimant [REDACTED 3]'s father and uncles matches the published name and country of the Account Owner. Additionally, Claimant [REDACTED 3] indicated that her parents formerly resided in Berlin, which matches the published city of the Account Owner. The attorney for the firm's liquidator also provided a public letter or advertisement regarding the aryanization of the Account Owner, a letter from a lawyer to a regional court in Berlin, and a resolution from a local court in Charlottenburg, providing independent verification that the firm that is claimed to be the Account Owner had the same name and was located in the same country as the Account Owner. Furthermore, the information provided by Claimant [REDACTED 3] corresponds to the information provided by [REDACTED 1], who plausibly identified the Account Owner in the August 2002 Award.

Status of the Account Owner as a Victim of Nazi Persecution

As detailed in the August 2002 Award, the CRT determined that the Account Owner was a Victim of Nazi Persecution.

Claimant [REDACTED 3]'s Relationship to the Account Owner

Claimant [REDACTED 3] has plausibly demonstrated that she is related to one of the owners of the Account Owner, by providing specific information indicating that she is the daughter of [REDACTED], who was one of the owners of the Account Owner, according to the attorney acting for the Account Owner's liquidator.

The Issue of Who Received the Proceeds

As detailed in the August 2002 Award, the CRT has concluded that it is plausible that the accounts' proceeds were not paid to the Account Owner, its owners, or their heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 3] and the parties she represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that she is related to one of the owners of the Account Owner, and that relationship justifies an Award. Third, the CRT determined in the August 2002 Award that it is plausible that neither the Account Owner, nor its owners, nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that the list of heirs of the Account Owner's owners, provided by the attorney acting for the liquidator of the Account Owner, does not include [REDACTED 1] or [REDACTED 2], whereas Claimant [REDACTED 3] and the parties she represents are included as heirs. Therefore, the entitlement of Claimant [REDACTED 3] and the parties she represents is stronger than that of [REDACTED 1] and [REDACTED 2]. Furthermore, Claimant [REDACTED 3] and the parties she represents are the only listed heirs to have submitted claims to the CRT. Article 24 of the Rules provides that the rights of individuals to an account who have not submitted claims to the CRT will, as a general rule, not be considered.

Amount of the August 2002 Award

As detailed in the August 2002 Award, the Account Owner held two demand deposit accounts. Based on review of the Bank's records, the CRT determined that the values of the accounts at issue were SF 169.50 and SF 69.00, respectively. Pursuant to Article 29 of the Rules, when the value of an account is less than the average value of the same or similar type of account, 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a demand deposit account was SF 2,140.00, resulting in a total average value of SF 4,280.00 for the two accounts at issue.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the August 2002 Award, the adjustment factor was 12, and the resulting award amount was SF 51,360.00.

Since the August 2002 Award, the adjustment factor has been raised to 12.5.

New Division of the Award

According to Article 23(3) of the Rules, if the account Owner is a legal or other entity, the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. According to information provided by the liquidator of the Account Owner, the

Account Owner was owned by [REDACTED], [REDACTED], [REDACTED], and [REDACTED], who were the father and uncles of Claimant [REDACTED 3]. Furthermore, in the information provided by the Account Owner's liquidator, Claimant [REDACTED 3] and the parties she represents are listed as the heirs of [REDACTED].

Consequently, Claimant [REDACTED 3] and represented party [REDACTED 4], as children of [REDACTED], are each entitled to one-third of the Award Amendment amount, and represented parties [REDACTED 6] and [REDACTED 5], as the children of another of [REDACTED]'s children, are each entitled to one-sixth of the Award Amendment amount.

Amount and Division of the Award Amendment

The CRT recognizes that Article 31(1) of the Rules adjusts account values based upon the length of time that has passed since 1945 and the awarding of the accounts. In this case, even though [REDACTED 1] was awarded in August 2002, Claimant [REDACTED 3] and the parties she represents, who are the subject of this award amendment, were not. Therefore, the CRT finds that the adjustment factor of 12.5, not 12, is the more appropriate factor to bring the value of their shares of the awarded accounts to current value.

Recognizing that over three years have passed since the August 2002 Award, and that there is no indication that [REDACTED 1] was aware that other more entitled persons had filed claims, the CRT determines that Claimant [REDACTED 3] and the persons she represents are entitled to a payment from the Settlement Fund equaling their shares of the award amount. As noted above, the total 1945 value of the Account Owner's accounts was SF 4,280.00. Claimant [REDACTED 3] and the persons she represents are entitled to the entire amount. 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 Amendment amount of SF 53,500.00.

Claimant [REDACTED 3] and the persons she represents are entitled to the full amount of the Award Amendment. Specifically, as detailed above, Claimant [REDACTED 3] and represented party [REDACTED 4] are each entitled to one-third of the Award Amendment amount, and represented parties [REDACTED 6] and [REDACTED 5] are each entitled to one-sixth of the Award Amendment amount.

Scope of the Award Amendment

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 Amendment

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
6 May 2006