

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of A. Hermann David

Claim Number: 784679/AX¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to accounts of Adolph Herman David, Stephanie David, Heinrich Langsam, Rosa Langsam, Bruno David, and Gertrud Inwald.² This Award is to the published accounts of A. Hermann David (the “Account Owner”), over which Bruno David (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).³

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 an Initial Questionnaire (“IQ”) to the Court in 1999 identifying the Account Owner as her paternal grandfather, Adolf Hermann David, who was born in 1868 and was married to [REDACTED], née [REDACTED]. The Claimant indicated that her grandparents, who were Jewish, had a son, Bruno David, who was the Claimant’s father. The Claimant indicated that her father was born in 1910, and that he married the Claimant’s mother, [REDACTED], née [REDACTED], in Vienna, Austria. According to the Claimant, her

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0575167, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 784679.

² The CRT will treat the claims to the accounts of Stephanie David, Heinrich Langsam, Rosa Langsam, Bruno David, and Gertrud Inwald in separate determinations.

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”), A. Hermann David is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account.

grandfather, who was a businessman, resided in Vienna before the Second World War. The Claimant indicated that her grandparents lived with her parents at Porzellangasse 58 in Vienna, that her parents fled Austria after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), that her grandparents followed in 1939, and that the family eventually resettled in Australia. According to the Claimant, her grandfather died in 1951 and her father died in 1974, both in Melbourne, Australia. The Claimant indicated that she and her brother, who is not included in her claim, are the only surviving heirs of her father and grandfather. The Claimant has stated that although she is not representing her brother, she intends to share any award amount with him. In support of her claim, the Claimant submitted a copy of her father’s birth certificate, indicating that his name was Bruno David, that his parents were Adolf Hermann David and [REDACTED], and that he was born on 19 August 1910 in Vienna, and a copy of her own birth certificate, indicating that her father was Bruno David. The Claimant indicated that she was born on 18 August 1943.

Information Available in the Bank’s Records

The Bank’s records consist of a power of attorney form and printouts from the Bank’s database. According to these records, the Account Owner was A. Hermann David, who resided at Berggasse 21 in Vienna, Austria, and the Power of Attorney Holder was *Herr* (Mr.) Bruno David, who resided at Porzellangasse 58 in Vienna. The Bank’s records indicate that the Account Owner held one account, the type of which is not indicated, which was opened no later than 21 August 1931. These records also contain signature samples for the Account Owner and the Power of Attorney Holder.

The Bank’s records do not show when the account at issue was closed, nor do these records indicate the value of this account. 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. There is no evidence in the Bank’s records that the Account Owner, the Power of Attorney Holder, 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 A. Hermann David, numbered 41990. These records indicate that *Herr* A. Hermann David, whose first name was Adolf, was born on 28 February 1869, and was married to [REDACTED], née [REDACTED]. These records further indicate that A. Hermann David resided at Porzellangasse 58 in Vienna, and that he was assessed flight tax (*Reichsfluchtsteuer*) of 30,281.00 Reichsmark (“RM”). These records also include the signature of A. Hermann David. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name and country and city of residence match the published name and country and city of residence of the Account Owner. The Claimant's father's name matches the published name of the Power of Attorney Holder. The Claimant indicated her father's street address in Vienna, which matches unpublished information about the Power of Attorney Holder contained in the Bank's records. The CRT notes that the signature of the Account Owner contained in the Bank's records matches the signature of A. Hermann David contained in the 1938 Census records, and the CRT therefore determines that the Bank's records and the 1938 Census records refer to the same individual. The CRT also notes that the street address provided by the Claimant for her father corresponds to the street address provided by the Account Owner in his 1938 Census declaration.

In support of her claim, the Claimant submitted a copy of her father's birth certificate, indicating that his name was Bruno David, that his father was Adolf Hermann David, and that he was born in Vienna, 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 city recorded in the Bank's records as the names and city of residence of the Account Owner and the Power of Attorney Holder. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country and city of residence of the Account Owner and did not identify the Power of Attorney Holder.

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, and that he and his family fled Austria after the *Anschluss* to escape Nazi persecution. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census decree.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include her father's birth certificate, indicating that his name was Bruno David, that his father was Adolf Hermann David, and the Claimant's birth certificate, indicating that her father was Bruno David. The CRT notes that the Claimant has a brother who is not represented in this claim.

The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder fled Austria to escape Nazi persecution; 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 and his 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 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 grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 3,950.00 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 49,375.00.

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
3 March 2006