

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by David Boros

in re Account of Leopold Drucker

Claim Number: 401907/MBC

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Leopold Drucker (the “Account Owner”) at the Biel branch of the [REDACTED] (the “Bank”).

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 his maternal grandfather, [REDACTED], who was born on 31 July 1860 in Brünn, Austria and was married to [REDACTED], née [REDACTED], on 23 June 1895 in Vienna, Austria. The Claimant indicated that his grandfather, who was Jewish, resided in Vienna before the Second World War. According to the Claimant, his grandfather was a lawyer who resided and maintained an office at Franz-Josefskai 65, in Vienna. The Claimant indicated that his grandparents had three children: [REDACTED], [REDACTED], and [REDACTED] (the Claimant's mother). The Claimant indicated that his grandfather died on 2 December 1938 in Vienna, and his grandmother was deported to Auschwitz, where she perished. According to information provided by the Claimant, his mother and aunts are no longer alive, but he has surviving maternal cousins. In support of his claim, the Claimant submitted documents obtained from the Austrian State Archive that were completed by his grandfather pursuant to 1938 Nazi legislation. These documents are more fully described below.

Information Available in the Bank's Records

The Bank's records consist of an excerpt from the Bank's ledger and a printout from the Bank's database. According to these records, the Account Owner was Dr. Leopold Drucker, who

resided in Vienna, Austria. The Bank's records indicate that the Account Owner held a savings/passbook account, numbered 5257. The Bank's records further indicate that the account was opened on 16 June 1931. The records indicate that the account was closed, but the date of closure is not recorded. Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with an additional document. This document consists of a customer card and indicates that the Account Owner was an attorney, and that he used an address at Franz Josefs-Kai 65 in Vienna. There is no evidence in the Bank's records that the Account Owner or his 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. Leopold Drucker, numbered 33329. According to these records, Dr. Leopold Drucker was born on 31 July 1860, and was married to [REDACTED], née [REDACTED]. These records further indicate that Leopold Drucker was a lawyer and resided at Franz Josefskai 65 in Vienna. 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 matches the published name of the Account Owner. The Claimant also identified his grandfather's title, profession, street address, and city of residence, which matches information contained in the Bank's records and 1938 Census records. The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owner.

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 resided in Austria after its incorporation into the German Reich in March 1938 (the "*Anschluss*") until he died in December 1938.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's grandfather. The CRT notes that the Claimant identified unpublished information about the

Account Owner as contained in the Bank's 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 he has asserted in his Claim Form. The CRT notes that the Claimant indicated that he has surviving cousins who have not submitted claims to the CRT and who are not represented in his claim.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Austria until his death in December 1938 and that his wife later perished in Auschwitz; that there is no record of the payment of the Account Owner's account to him; 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 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 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 grandfather, 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.

The CRT notes that the Claimant indicated that he has surviving cousins who would also be entitled to the Account Owner's account, but that they have not submitted claims to the CRT and are not represented in his claim, and so the CRT does not address their potential entitlement to the Account Owner's account in this decision.

Amount of the Award

In this case, the Account Owner held a savings/passbook account. 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 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 savings/passbook account was 830.00 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 10,375.00.

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 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
October 20, 2006