

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Walter Friedrich

in re Accounts of Berta Stricker

Claim Number: 501646/SI

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Dr. [REDACTED] (the “Claimant”) to the published accounts of Berta Stricker (the “Account Owner”) at the Zurich 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 her paternal grandmother, Berta (Bertha) Stricker, née Wengraf, who was born on 12 July 1863 in Vienna, Austria, and was married to [REDACTED] on 11 January 1885 in Vienna. The Claimant further indicated that her grandmother, who was Jewish and a housewife, had three children: [REDACTED] (the Claimant's father), [REDACTED], and [REDACTED], all of whom were born in Vienna. According to information provided by the Claimant, her grandfather died in 1928, and her grandmother resided at Apollogasse 8 in Vienna until 1938, after which she resided at a nursing home at Seegasse 16 in Vienna until her death on 2 February 1942. The Claimant indicated that her parents and her father's siblings are all deceased. According to information provided by the Claimant, she has two siblings, and her father's siblings had children, as well, but she did not indicate whether they are still alive, and is not representing them in her claim.

In support of her claim, the Claimant submitted documents, including: (1) copies of a codicil to her grandmother's last will and inheritance documents, indicating that Bertha Stricker was born on 12 July 1863 in Vienna, that she was Jewish, that she had three surviving children, including her son, [REDACTED], and naming her daughter-in-law, [REDACTED] as one of her heirs; (2) copies of her father's birth and death certificates, indicating that [REDACTED] was born in Vienna to [REDACTED] and Berta Stricker, née Wengraf; (3) copies of her mother's death

certificate, last will, and probate documents, indicating that [REDACTED] resided at Apollogasse 8 in Vienna, that she was married to [REDACTED], and that her estate was to be divided in equal shares among her three children: [REDACTED], [REDACTED], and [REDACTED]; (4) copies of her own birth and baptism certificates, indicating that her parents were [REDACTED] and [REDACTED]; and (5) an excerpt from her grandmother's Austrian asset declaration, described in detail below. The Claimant indicated that she was born on 13 July 1921 in Vienna.

Information Available in the Bank's Records

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Berta Stricker, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a custody account, numbered L41330, and a debit account.

The Bank's record indicates that the custody account was closed on 15 March 1938 and that the debit account was closed on 20 March 1938. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's records that the Account Owner or her heirs closed the accounts 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 Berta Stricker, nee Wengraf, numbered 15648. These documents indicate that Berta Stricker was born on 12 July 1863 and that she resided in Vienna. These documents further indicate that Berta Stricker owned securities worth 5,449.70 Reichsmark. 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 grandmother's name and country of residence match the published name and country of residence of the Account Owner. The Claimant indicated that her grandmother resided in Vienna, which matches unpublished information about the Account Owner contained in the Bank's record. The Claimant also provided documents that indicate that her family resided at the same street address as the address indicated in the Account Owner's 1938 Census declaration. In support of her claim, the Claimant submitted documents, including copies of a codicil to her grandmother's last will and inheritance documents and copies of her father's birth and death certificates, providing independent verification that the person who is claimed to be the Account Owner had the same

name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the name Berta Stricker appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT also 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 was Jewish and that she resided in Vienna until her death on 2 February 1942.

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 grandmother. These documents include: (1) copies of a codicil to her grandmother's last will and inheritance documents, indicating that Bertha Stricker had a son named [REDACTED], and a daughter-in-law named [REDACTED]; (2) copies of her father's birth and death certificates, indicating that [REDACTED]'s mother was Berta Stricker, née Wengraf; (3) copies of her mother's death certificate, last will, and probate documents, indicating that [REDACTED] was married to [REDACTED], and that she had a daughter named [REDACTED]; and (4) copies of her own birth and baptism certificates, indicating that her parents were [REDACTED] and [REDACTED]. The CRT notes that the Claimant indicated that she has siblings and paternal cousins, but that she did not indicate whether they are still alive.

The Issue of Who Received the Proceeds

In this case, the Account Owner held a debit account and a custody account.

With regard to the debit account, the CRT notes that the existence of such an account indicates that the Account Owner was the Bank's debtor, and that the closure of the debit account indicates that the Account Owner repaid the debt owed to the Bank or that the debt was written off by the Bank. Accordingly, as the existence of this debit account does not reflect any asset ownership by the Account Owner, no award can be based on its existence.

With regard to the custody account, given that the Account Owner resided in Vienna until her death on 2 February 1942; that there is no record of payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 Owners or her 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 grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the custody account.

The CRT notes that the Claimant indicated that she has siblings and paternal cousins, but that she did not indicate whether they are still alive. Because they are not represented in her claim, and did not submit Claim Forms on their own behalf, their potential entitlement to the Account Owner's accounts will not be treated in this decision. The CRT notes, however, that as the Account Owner's grandchildren, they would be equally entitled to the Account Owner's accounts, if they had either submitted Claim Forms or were represented by the Claimant.

Amount of the Award

In this case, the Award is for one custody 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 custody account was 13,000.00 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 162,500.00.

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
7 June 2006