

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Accounts of Erich and Josepha Urbach

Claim Number: 500948/MBC

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the "Claimant") to the published account of Erich Urbach. This Award is to the published and unpublished accounts of Erich Urbach ("Account Owner Erich Urbach") and Josepha Urbach ("Account Owner Josepha Urbach") (together the "Account Owners") at the Zurich branch of the [REDACTED] (the "Bank").¹

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 Owners as his father, Dr. Erich Urbach, who was born on 29 July 1883 in Prague, Czechoslovakia, and his mother, Dr. Josepha Maria Wilhelmina Urbach, née Kronstein, who was born on 21 February 1895. The Claimant stated that his parents were married on 29 July 1924 in Vienna, Austria. The Claimant stated further that his parents lived at Gonzagagasse 12 in Vienna from 1926 to 1934 and at Schottenring in Vienna from 1934 to 1938. According to the Claimant, his father, who was Jewish, fled in April 1938 to the United States, where he died in Philadelphia, Pennsylvania on 17 December 1946. The Claimant stated that his mother died in Philadelphia on 19 August 1981.

In support of his claim, the Claimant submitted his father's death certificate, stating that he held the title of medical doctor, and that he was married to Josepha Urbach; his mother's death certificate, stating that she was a physician; and the Claimant's and his brother's birth

¹ 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"), Erich Urbach is indicated as having one account. Upon careful review, the CRT concludes that Erich Urbach held two accounts, both jointly with Josepha Urbach, whose name was not published on the ICEP List.

certificates, stating that they were born in Vienna and that their parents were Dr. Erich Urbach and Dr. Josepha Urbach, née Kronstein. The Claimant stated that he was born on 6 September 1922 in Vienna. The Claimant represents his brother, [REDACTED 2], who was born on 2 August 1924 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of two customer cards. According to these records, the Account Owners were Dr Erich Urbach, a university lecturer, and *Frau* (Mrs.) Dr Josepha Urbach., both residing in Vienna, Austria. The Bank's records indicate that the Account Owners jointly held a demand deposit account and a custody account, numbered L58188. According to the Bank's records, the accounts were originally held in the name of Account Owner Erich Urbach. These records indicate that the demand deposit account was transferred on 1 November 1934 to the Account Owners' joint account and that the custody account was transferred on 23 May 1936 to the Account Owners' joint account.

The Bank's records indicate that the demand deposit account was closed on 20 March 1938 and that the custody account was closed on 4 May 1938. The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's records that the Account Owners or their 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, and/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 Erich Urbach, numbered 41108. These documents indicate that Dr. Erich Urbach, who was born on 29 July 1893 and who was married to Dr. Josepha Urbach, née Kronstein, was a dermatologist and a university lecturer, and lived at Schottenring 7 in the first district of Vienna. These records indicate that Dr. Erich Urbach was Jewish and that his wife, Dr. Josepha Urbach, was partly Jewish ("*Mischling 1. grades*"). The documents list Dr. Erich Urbach's assets as comprising bank deposits valued at 8,161.86 Reichsmark ("RM"), professional business assets valued at RM 1,547.55, miscellaneous objects valued at RM 500.00, a life insurance policy valued at RM 9,001.00, a motor vehicle valued at RM 2,000.00 and securities that are described as being "of no value." The documents indicate that the motor vehicle was confiscated by the Nazi authorities and that the life insurance policy, as well as a right to licensing right on a pharmaceutical preparation, were transferred to Erich Urbach's sister-in-law, [REDACTED], for the support of her and her parents, [REDACTED] and [REDACTED]. Moreover, the documents indicate that those assets belonging to Dr. Erich Urbach not transferred to [REDACTED] were liquidated to cover the costs of Dr Erich Urbach's emigration to the United States as well as his tax liabilities, including the "flight tax" (*Reichsfluchtsteuer*). The documents further show that the 1938 Census record relating to Dr. Erich Urbach's assets was signed by his wife on 15 July 1938, at which time Dr. Erich Urbach was in Pennsylvania. The records make no mention of

assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The name and country of residence of the Claimant's father matches the published name and country of residence of Account Owner Erich Urbach. Moreover, the name and country of residence of the Claimant's mother matches the unpublished name and country of residence of Account Owner Josepha Urbach. The Claimant identified the Account Owners' city of residence as well as the fact that they both held the title of "Doctor", which matches unpublished information about the Account Owners contained in the Bank's records. The Claimant provided the Account Owners's birthdates, the fact that they were married, and their street address, which matches information contained in the 1938 Census. Furthermore, the CRT notes that Dr. Erich Urbach's 1938 Census record indicates that in addition to being a medical doctor, Dr. Erich Urbach was also a university lecturer, which matches information contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including the Claimant's father's death certificate, the Claimant's mother's death certificate and the Claimant and his brother's birth certificates, showing the names of their parents, Dr. Erich Urbach and Dr. Josepha Urbach, providing independent verification that the persons who are claimed to be the Account Owners had the same names, held the same title, and resided in the same city recorded in the Bank's records as the names, title and city of residence of the Account Owners.

The CRT notes that the name Erich Urbach appears only once 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"). The CRT further notes that there are no other claims to these accounts.

Status of the Account Owners as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that Account Owner Erich Urbach was Jewish, and the 1938 Census records document that Account Owner Josepha Urbach was part Jewish and was considered to be Jewish by the Nazis. The Claimant stated that his father fled Austria to the United States, and that his mother resided in Austria after its incorporation into the Reich at least until July 1938.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he and his brother, whom he represents, are related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's parents. These documents include the Claimant's and his brother's birth certificates, which state that their parents were Dr. Erich Urbach and Dr.

Josepha Urbach. There is no information to indicate that the Account Owners have surviving heirs other than the party whom the Claimant represents.

The Issue of Who Received the Proceeds

The Bank's records indicate that the demand deposit account was closed on 20 March 1938 and that the custody account, numbered L 58188, was closed on 4 May 1938. Although Account Owner Erich Urbach emigrated to the United States in April 1938 before the closure of the custody account, given that Account Owner Josepha Urbach remained in Austria and under Nazi jurisdiction after the closure of both accounts and emigrated to the United States only sometime after July 1938; that the Account Owners would not have been able to repatriate their accounts to Austria without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their 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 (a), (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 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 the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his parents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held a demand deposit account and a 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF") and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of a demand deposit account and a custody account is SF 15,140.00. 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 189,250.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant represents his brother. Accordingly, the Claimant and his brother are each entitled to one-half of the total award amount.

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
9 March 2005