

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2],
[REDACTED 3] and [REDACTED 4]

in re Account of Arthur Bauer

Claim Numbers: 004392/MC; 004394/MC; 004435/MC

This Certified denial is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Amalie Regensburger, Alfred Regensburger, and Simon Bauer.¹ This denial is to the published account of Arthur Bauer (the “Account Owner”), over which Simon Bauer (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).

All denials 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.

The December 2002 Award

On 27 December 2002, the Court approved an Award to [REDACTED] (“Claimant [REDACTED]”) for an account held by the Account Owner at the Bank (the “December 2002 Award”). In the December 2002 Award, the CRT determined that the Account Owner owned one account of unknown type at the Bank. The CRT further determined that Claimant [REDACTED] plausibly identified the Account Owner as her father, that her father was a Victim of Nazi Persecution, and that it was plausible that the Account Owner did not receive the proceeds of the claimed account. The CRT noted that the Bank’s records did not indicate the value of the account, and therefore presumed that its value was 3,950.00 Swiss Francs (“SF”). The resulting December 2002 Award amount was SF 47,400.00. Finally, the CRT determined that Claimant [REDACTED] was entitled to the entire award amount. The December 2002 Award did not address Claimant [REDACTED 1]’s entitlement to the Account Owner’s account. This decision addresses Claimant [REDACTED 1]’s entitlement to that account.

¹ In a separate decision, the accounts of Amalie Regensburger were awarded to Claimant [REDACTED 1]. See *In re Accounts of Amalie Regensburger* (approved on 7 June 2006). In a separate decision, the CRT treated Claimant [REDACTED 1]’s claim to an account belonging to Alfred Regensburger.

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form and an Initial Questionnaire (“IQ”) identifying the Account Owner as her maternal uncle, Arthur Bauer, who was born on 27 July 1909 in Erlangen, Germany, and the Power of Attorney Holder as her maternal grandfather’s brother, [REDACTED]. According to Claimant [REDACTED 1], her uncle was married to [REDACTED], and together they had one daughter, [REDACTED], née [REDACTED] (Claimant [REDACTED]).

In support of her claim, Claimant [REDACTED 1] submitted copies of: (1) her mother’s passport, indicating that [REDACTED] was born in Erlangen; (2) her parents’ marriage certificate, issued by the German Consulate General in Shanghai, indicating that [REDACTED]’s maiden name is [REDACTED]; and (3) an inheritance order from an Israeli court, indicating that [REDACTED]’s children are [REDACTED 2], [REDACTED 3], [REDACTED 4], and Claimant [REDACTED 1], and that each received a one-fourth share of their mother’s estate.

Claimant [REDACTED 1] indicated that she was born on 3 March 1943 in Bnei-Brak, Israel. Claimant [REDACTED 1] is representing her siblings: [REDACTED 2], [REDACTED 3], née [REDACTED], and [REDACTED 4], née [REDACTED].

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form in 1998 and an IQ to the Court in 1999, asserting her entitlement to a Swiss bank account owned by her mother, [REDACTED]; her maternal grandmother, [REDACTED]; her maternal grandfather, [REDACTED]; and her maternal grandfather’s brother, [REDACTED].²

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) of the Rules, claims to the same or related account 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 Claimant [REDACTED 1] in one proceeding.

Claimant [REDACTED 1]’s Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner and the Power of Attorney Holder by submitting specific biographical information, demonstrating that the Account Owner was her maternal uncle and that the Power of Attorney Holder was her maternal grandfather’s brother. The information provided by Claimant [REDACTED] is consistent with the information provided by Claimant [REDACTED 1]. The

² The CRT did not locate an account belonging to Ernestine Bauer or Joseph Bauer in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

CRT therefore concludes that both Claimant [REDACTED] and Claimant [REDACTED 1] are related to the Account Owner and the Power of Attorney Holder.

Claimant [REDACTED 1]'s Entitlement to the December 2002 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.

The CRT notes that Claimant [REDACTED] is the Account Owner's daughter, and that Claimant [REDACTED 1] is the Account Owner's niece. Claimant [REDACTED], as the direct descendant of the Account Owner, is more entitled to the account than Claimant [REDACTED 1], who is a descendant of the Account Owner's parents. Accordingly, Claimant [REDACTED] is entitled to the entire award amount; Claimant [REDACTED 1] is not entitled to any portion of the total award amount.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, Claimant [REDACTED 1] may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

Claimant [REDACTED 1] should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, Claimant [REDACTED 1] should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
30 August 2010