

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3],
Claimant [REDACTED 4], also acting on behalf of [REDACTED], and Claimant
[REDACTED 5], represented by [REDACTED]

in re Account of Arthur Perutz, Richard Perutz, Felix Perutz and Leo Perutz

Claim Numbers: 213731/PY¹; 211884/PY²; 219098/PY; 210971/PY³; 223339/PY⁴

Award Amount: 721,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Arthur Perutz⁵, the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of [REDACTED], the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of [REDACTED]⁵, as well as the claims of [REDACTED 4] (“Claimant [REDACTED 4]”) and [REDACTED 5] (“Claimant [REDACTED 5]”) (together the “Claimants”) to the account of Leo Perutz. This Award is to the account of Arthur Perutz (“Account Owner Arthur Perutz”), Richard Perutz (“Account Owner Richard Perutz”), Felix Perutz (“Account Owner Felix Perutz”) and Leo Perutz (“Account Owner Leo Perutz”) (together the “Account Owners”) at [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case all of the Claimants except Claimant [REDACTED 2] and Claimant [REDACTED 3] have so requested, 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 Claimants

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Arthur Perutz as her maternal grandfather, who was born in 1874 and was married to [REDACTED] ([REDACTED]), née [REDACTED]. Claimant [REDACTED 1] stated that her grandfather, who resided in Prague, Czechoslovakia, owned a textile company by the name of *Brüder Perutz*. According to Claimant [REDACTED 1], her grandfather, who was Jewish, was deported to the Mauthausen concentration camp, where he perished in 1944. In support of her claim, Claimant [REDACTED 1] submitted the Czech passport of her mother, [REDACTED], née [REDACTED], which indicates that Claimant [REDACTED 1] was her daughter, as well as her mother's death certificate, which indicates that [REDACTED]'s father was Arthur Perutz. Claimant [REDACTED 1] indicated that she was born on 28 July 1938 in Prague.

Claimant [REDACTED 2] submitted a Claim Form identifying Account Owner Felix Perutz as her father, who was born on 17 February 1900 in Prague, and was married to [REDACTED], née [REDACTED], on 4 October 1935 in Vienna, Austria. Claimant [REDACTED 2] stated that her father, who resided in Vienna and Prague, owned a factory in Prague. According to Claimant [REDACTED 2], in 1938 her father, who was Jewish, fled with his family to Budapest, Hungary, and returned to Austria in 1948, where he remained until his death on 17 November 1972. In support of her claim, the Claimant submitted her father's birth certificate, which identifies him as Felix Perutz and indicates that he was born in Prague; her father's marriage certificate, which identifies him as Felix Perutz and indicates that he was a factory owner; and her own birth certificate, identifying her father as Felix Perutz. Claimant [REDACTED 2] indicated that she was born on 15 August 1938.

Claimant [REDACTED 3] submitted a Claim Form identifying Account Owner Richard Perutz as his maternal grandfather, who was born in 1869 and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 3] stated that his grandfather, who resided in Prague, was the head of the family business *Brüder Perutz* when it was taken over by the Nazis. Claimant [REDACTED 3] further stated that his grandfather, who was Jewish, fled during the Second World War to the United States via France, Spain and Cuba, and remained there until his death in New York, New York, in approximately 1948. In support of his claim, Claimant [REDACTED 3] submitted a detailed family tree, which indicates the relationships between Arthur Perutz, Felix Perutz, Richard Perutz and Leo Perutz. According to this family tree, Arthur Perutz and Richard Perutz were cousins, as Arthur Perutz's father, [REDACTED], was the brother of Richard Perutz's father, [REDACTED]. The family tree further indicates that Felix Perutz was the nephew of Richard Perutz, *i.e.* the son of Arthur Perutz's brother, [REDACTED]. The family tree also reveals that Leo Perutz was the nephew of Arthur Perutz, *i.e.* the son of Arthur Perutz's brother [REDACTED]. Claimant [REDACTED 3] indicated that he was born on 31 October 1932 in Prague.

Claimant [REDACTED 4] submitted a Claim Form identifying Account Owner Leo Perutz as his father, who was born on 6 June 1901 in Prague, and was married to [REDACTED], née [REDACTED], on 14 December 1931, also in Prague. Claimant [REDACTED 4] stated that his father resided in Prague at the following addresses in successive order: Terronska 696, Velvarska 35, Havlikovo Nam. 15 and Senovazna 15. Claimant [REDACTED 4] further stated that his father, who held the title of engineer (*Ing.*), was the owner of one-fourth of a large industrial firm that manufactured textiles, *Briatri Perutzove* or *Brüder Perutz*, which was located at Na Florenci 15 in Prague II. According to Claimant [REDACTED 4], his father, who was Jewish, was baptized in 1938 in an attempt to protect himself from the Nazis, but was deported to Theresienstadt on 26 May 1942 and subsequently in September 1944 to Auschwitz, where he is presumed to have died on 28 March 1945. In support of his claim, Claimant [REDACTED 4] submitted his and his sister's birth certificates, which state that their father was *Ing.* Leo Perutz; their father's deportation card, which indicates that he resided in Prague; his father's death certificate; a history of the company *Brüder Perutz*, which

indicates that its owners were Arthur Perutz, Richard Perutz, Felix Perutz and Leo Perutz, and that the company was "aryanized" in October 1941. In addition, Claimant [REDACTED 4] submitted an inheritance certificate issued by the court in Prague in 1946, declaring therein that Leo Perutz's heirs were [REDACTED], [REDACTED] and [REDACTED], as well as a copy of [REDACTED]'s will, in which [REDACTED] and [REDACTED] are named as her only heirs. Claimant [REDACTED 4] indicated that he was born on 4 February 1936 in Prague. Claimant [REDACTED 4] is representing his sister, [REDACTED], née [REDACTED], who was born on 8 November 1932, also in Prague.

Claimant [REDACTED 5] submitted a Claim Form identifying Account Owner Leo Perutz as his maternal uncle, whose parents were [REDACTED] and [REDACTED]. Claimant [REDACTED 5] stated that his uncle, who was Jewish, was a businessman and the owner of a company called *Perutz*. According to Claimant [REDACTED 5], his uncle perished in Auschwitz in 1944. Claimant [REDACTED 5] indicated that he was born on 9 March 1931.

Information Available in the Bank's Records

The Bank's records consist of a contract between the Account Owners and the Bank relating to the administration of the Account Owners' assets, a letter from the Bank to the Custodian Trust Company Limited in Canada, and a deed of assignment from the Bank to the Account Owners. According to these records, the Account Owners were Arthur Perutz, Richard Perutz, *Ing.* Leo Perutz and Felix Perutz, all of whom resided in Prague, Czechoslovakia. The Bank's records indicate that Account Owner Arthur Perutz was born on 11 August 1874, that Account Owner Richard Perutz was born on 15 July 1869, that Account Owner Leo Perutz was born on 6 June 1901, and that Account Owner Felix Perutz was born on 17 February 1900. The Bank's records further indicate that the Account Owners held a custody account, which was opened on 24 January 1939.

The contract between the Account Owners and the Bank, which was dated 24 January 1939, and which was signed by Account Owner Arthur Perutz on behalf of all the Account Owners, provided for the administration of the Account Owners' assets by the Bank. Under this contract, the Account Owners were collectively referred to under the test name "Augusta." This contract specifically provided for the assets under administration to be placed in the Bank's name and were to be administered by the Custodian Trust Company Limited located in Charlottetown, Canada. Under the terms of this contract, in the event that war was declared on Switzerland, or, in the absence of such a declaration, that Switzerland was invaded or attacked by a foreign power, the Bank would cease the administration of these assets and any power of attorney granted in favor of the Bank by the Account Owners for such purpose would be revoked, and the assets would no longer be held on account of the Bank, but on account of "Augusta." This was referred to in the contract as the "change-over."

The letter from the Bank to the Custodian Trust Company Limited, dated 25 January 1939, contains the Bank's letter of instructions to the Custodian Trust Company Limited, which repeats the terms of the contract between the Account Owners and the Bank. In this letter, the Bank requested the Custodian Trust Company to act as a safe custodian of any securities, cash balances, or other valuables, which were to be delivered by the Bank under the designation "Augusta." The Bank issued instructions to the Custodian Trust Company to open in its books a new sub-account "Augusta." The letter further instructed the Custodian Trust Company that all such valuables were to be held in its name and indicated that these would be held for the Bank's account or that they would be transferred at the Bank's request, or with its approval, to another bank, or to the agents of the Bank of Montreal in New York, to the Custodian Trust Company's own offices in Canada, or to offices of the Royal Trust Company in Canada or Great Britain. Together with its letter of instructions, the Bank provided a letter of indemnity to the Custodian Trust Company Limited, promising in consideration for their services to indemnify them against all claims, demands, costs, taxes, expenses, losses or damages which may have arisen in connection with the management, possession or control by the company of these valuables. A similar indemnity from the Account Owners to the Custodian Trust Company Limited is also provided. The latter was signed only by Account Owner Arthur Perutz on behalf of all Account Owners. The Bank explained that owing to the difficult political situation in Czechoslovakia, it was not possible to collect the signatures of all Account Owners on that letter.

The letter from the Bank also includes the specimen signatures of the Account Owners, together with their individual photographs and birth dates. This letter indicates that the signatures belonged to the partners of a firm trading under the name *Brüder Perutz* in Prague. Appended to the letter is the list of valuables which were to have been transferred by the Bank to the Custodian Trust Company Limited. This list, also dated 24 January 1939, indicates that approximately 4,800.00 United States Dollars, equivalent to 21,240.00 Swiss Francs, was to be deposited at the Bank of Montreal in New York and that 1,000.00 Sterling Pounds, in English sovereigns, equivalent to 36,500.00 Swiss Francs, was to be deposited at the Royal Trust Company in London.

The deed of assignment, which was also dated 24 January 1939, and which refers to the letter of the same date from the Bank to the Custodian Trust Company, provided that upon the occurrence of the "change-over" provided for in this letter, all right, title and interest of the Bank in, to and out of the securities held by the Custodian Trust Company under the test name "Augusta" would be assigned, transferred and made over to the Account Owners. The terms of the deed provided that the deed was to be interpreted in accordance with and governed by the laws in force in the province of Prince Edward Island in Canada.

The Bank's records indicate that the account was closed on 8 March 1960. 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") indicated, however, that the last entry for the account in the Bank's registry of trust accounts was in 1944. The amount in the account

on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the five claims of the Claimants in one proceeding.

Identification of the Account Owners

Claimant [REDACTED 1] has plausibly identified Account Owner Arthur Perutz. Her grandfather's name matches the published name of Account Owner Arthur Perutz. Claimant [REDACTED 1] identified her grandfather's city of residence, the name of his company, and his year of birth, which matches unpublished information about Account Owner Arthur Perutz contained in the Bank's records. In support of her claim, Claimant [REDACTED 1] submitted the Czech passport of her mother, [REDACTED], née [REDACTED], which indicates that Claimant [REDACTED 1] was her daughter, as well as her mother's death certificate, which indicates that [REDACTED]'s father was Arthur Perutz.

Claimant [REDACTED 2] has plausibly identified Account Owner Felix Perutz. Her father's name, city and country of residence match the published name, country and city of residence of Account Owner Felix Perutz. Claimant [REDACTED 2] identified her father's profession, as well as his birth date, which matches unpublished information about Account Owner Felix Perutz contained in the Bank's records. In support of her claim, Claimant [REDACTED 2] submitted her father's birth and baptism certificate, which indicates that he was born in Prague; her father's marriage certificate, which indicates that he was a factory owner; and her own birth certificate, which indicates that her father was Felix Perutz.

Claimant [REDACTED 3] has plausibly identified Account Owner Richard Perutz. His grandfather's name matches the unpublished name of Account Owner Richard Perutz. Claimant [REDACTED 3] identified his grandfather's city of residence, the name of his company, and his birth date, which matches unpublished information about Account Owner Richard Perutz contained in the Bank's records.

Claimant [REDACTED 4] has plausibly identified Account Owner Leo Perutz. His father's name, city and country of residence match the published name, city and country of residence of Account Owner Leo Perutz. Claimant [REDACTED 4] identified his father's title, the name of his father's company, as well as his birth date, which matches

unpublished information about Account Owner Leo Perutz contained in the Bank's records. Furthermore, Claimant [REDACTED 4] identified all of the owners of his father's company, which also matches unpublished information contained the in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Leo Perutz, and indicates that his date of birth was 6 June 1901 and that he resided in Czechoslovakia, which matches the information about Account Owner Leo Perutz provided by Claimant [REDACTED 4]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Claimant [REDACTED 5] has also plausibly identified Account Owner Leo Perutz. His uncle's name matches the published name of Account Owner Leo Perutz. Claimant [REDACTED 5] identified the fact that his uncle was a businessman who owned a company trading under the family name, which matches unpublished information contained in the Bank's records. In support of his claim, Claimant [REDACTED 5] submitted his birth certificate, which indicates that his mother was [REDACTED], the daughter of [REDACTED] and [REDACTED].

The CRT notes that there are no other claims to this account. Taking all of these factors into consideration, the CRT concludes that the Claimants have plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, and that Account Owner Arthur Perutz and Account Owner Leo Perutz perished in the Mauthausen and Auschwitz concentration camps, respectively; that Account Owner Felix Perutz fled Czechoslovakia for Hungary in 1938; and that Account Owner Richard Perutz fled Czechoslovakia for the United States via France, Spain and Cuba during the Second World War. As noted above, a person named Leo Perutz was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

Claimant [REDACTED 1] has plausibly demonstrated that she is related to Account Owner Arthur Perutz by submitting specific biographical information and documents, including her mother's death certificate, which identifies her father as Arthur Perutz, demonstrating that she is Account Owner Arthur Perutz's granddaughter.

Claimant [REDACTED 2] has plausibly demonstrated that she is related to Account Owner Felix Perutz by submitting specific biographical information and documents, including her birth certificate, identifying her father as Felix Perutz, demonstrating that she is Account Owner Felix Perutz's daughter.

Claimant [REDACTED 3] has plausibly demonstrated that he is related to Account Owner Richard Perutz by submitting specific biographical information and documents, including a detailed family tree, demonstrating that he is Account Owner Richard Perutz's grandson.

Claimant [REDACTED 4] has plausibly demonstrated that he is related to Account Owner Leo Perutz by submitting specific biographical information and documents, including his birth certificate, identifying his father as Leo Perutz, demonstrating that he is Account Owner Leo Perutz's son.

Claimant [REDACTED 5] has plausibly demonstrated that he is related to Account Owner Leo Perutz by submitting specific biographical information demonstrating that he is Account Owner Leo Perutz's nephew.

The Issue of Who Received the Proceeds

Given that the Account Owners were Jewish and resided in Nazi-occupied Czechoslovakia, Austria, and Hungary; that the Account Owners' custody account was closed in 1960; that Account Owner Arthur Perutz and Account Owner Leo Perutz perished in concentration camps during the Second World War; that Account Owner Richard Perutz died in 1948; that there is no record of the payment of the Account Owners' account to Account Owner Felix Perutz or to any of the Account Owners' heirs; that the Account Owners and their heirs would not have been able to obtain information about their 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, as amended (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 Claimants. First, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Arthur Perutz was her grandfather, Claimant [REDACTED 2] has plausibly demonstrated that Account Owner Felix Perutz was her father, Claimant [REDACTED 3] has plausibly demonstrated that Account Owner Richard Perutz was his grandfather, and Claimant [REDACTED 4] and Claimant [REDACTED 5] have plausibly demonstrated that Account Owner Leo Perutz was their father and uncle respectively, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held one custody account. The Bank's records indicate that the value of the custody account as of 24 January 1939 was 57,740.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is 721,750.00 Swiss Francs.

Division of the Award

According to Article 25(1) of the Rules, if an account is a joint account, which is the case here, and Claimants related to each of the Account Owners have submitted claims to the Account, it shall be presumed that each Account Owner was owner of an equal share of the account. Consequently, each of the Account Owners shall be presumed to have a one-fourth share of the account.

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents. Claimant [REDACTED 4] submitted Leo Perutz's inheritance certificate issued by the court in Prague, which names his mother, himself and his sister [REDACTED] as Leo Perutz's heirs. Claimant [REDACTED 4] and [REDACTED], whom he represents, are therefore entitled to Account Owner Leo Perutz's share of the account, as their mother is deceased. Accordingly, Claimant [REDACTED 1] and [REDACTED] are each entitled to one-eighth of the total award amount. Claimant [REDACTED 5], who is not named as an heir in the inheritance certificate, is not entitled to Account Owner Leo Perutz's share of the account.

According to Article 23(1)(c) of the Rules, in the absence of the Account Owner's will, 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, Claimant [REDACTED 1] is the granddaughter and direct descendant of Account Owner Arthur Perutz, and is better entitled to Account Owner Arthur Perutz's share of the account than the other Claimants, as Claimant [REDACTED 2] is Account Owner Arthur Perutz's great-niece; Claimant [REDACTED 3] is Account Owner Arthur Perutz's cousin; Claimant [REDACTED 4] is Account Owner Arthur Perutz's great-nephew; and Claimant [REDACTED 5] is Account Owner Arthur Perutz's great-nephew. Accordingly, she is entitled to one-quarter of the total award amount.

Claimant [REDACTED 2] is the daughter and direct descendant of Account Owner Felix Perutz, and is therefore better entitled to Account Owner Felix Perutz's share of the account than the other Claimants, as Claimant [REDACTED 1], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant [REDACTED 5] are all Account Owner Felix Perutz's cousins. Accordingly, she is entitled to one-quarter of the total award amount.

Claimant [REDACTED 3] is the grandson and direct descendant of Account Owner Richard Perutz, and is therefore better entitled to Account Owner Richard Perutz's share of the account than the other Claimants, as Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 4], and Claimant [REDACTED 5] are all Account Owner Richard Perutz's cousins. Accordingly, he is entitled to one-quarter of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
31 December 2003

¹ Claimant [REDACTED 1] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 213699. The CRT will treat the claim to this account in a separate decision.

² Claimant [REDACTED 2] submitted an additional claim to the account of [REDACTED], which is registered under Claim Number 213699. The CRT has already treated the claim to this account in a separate decision.

³ Claimant [REDACTED 4] submitted two Claim Forms, which were registered under the Claim Numbers 210971 and 220584. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 210971.

⁴ Claimant [REDACTED 5] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 223141. The CRT will treat the claim to this account in a separate decision.

⁵ The CRT has already awarded Claimant [REDACTED 1] an additional account belonging to Arthur Perutz in a separate decision.