

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Margueritte Badulianu¹

and to Claimant [REDACTED]

in re Account of Andrei Baduleanu and Margaret Baduleanu

Claim Numbers: 706046/SJ,² 220699/SJ, 601326/SJ,³ 706047/SJ⁴

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Margueritte Badulianu, née [REDACTED], (“Claimant Badulianu”) and upon the claims of [REDACTED], née [REDACTED], (“Claimant [REDACTED]”) (together the “Claimants”) to the account of [REDACTED].⁵ This Award is to the published account of Andrei Baduleanu (“Account Owner A. Baduleanu”) and Margaret Baduleanu (“Account Owner M. Baduleanu”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).⁶

¹ Margueritte Badulianu passed away on 5 May 2000.

² Claimant Margueritte Badulianu did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0728 187, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 706046.

³ Claimant [REDACTED] submitted a claim, numbered B-01436, on 27 October 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601326.

⁴ Claimant [REDACTED] also submitted an IQ, numbered ENG 0728 191, to the Court in the United States in 1999. The IQ was forwarded to the CRT and has been assigned claim number 706047.

⁵ The CRT did not locate an account belonging to the Claimants’ relative, [REDACTED], 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”). The Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

⁶ 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”), Andrei Baduleanu and Margaret Baduleanu are each indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account jointly held by Andrei Baduleanu and Margaret Baduleanu.

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 Claimants

Claimant Badulianu submitted an Initial Questionnaire (“IQ”) claiming an account belonging to her uncle, [REDACTED]. The CRT could not locate an account belonging to her uncle; however, Claimant Badulianu's name matches the name of Account Owner M. Baduleanu. Claimant Badulianu died on 5 May 2000, so the CRT contacted her sister, Claimant [REDACTED], to obtain additional personal information about Claimant Badulianu. Claimant [REDACTED] submitted a Claim Form identifying the Account Owners as her sister and her brother-in-law, Margueritte Badulianu, née [REDACTED], and Andrei Badulianu. Claimant [REDACTED] indicated that her sister, who was Jewish, was born on 26 June 1920 in Bucharest, Romania. In telephone conversations with the CRT on 16 December 2004 and 18 January 2005, Claimant [REDACTED] stated that her sister and brother-in-law were married on 22 February 1940 in Bucharest, where they resided. Claimant [REDACTED] indicated that her family was quite wealthy and that her maternal uncle, [REDACTED], deposited much of his fortune at the Bank, including United States Dollars, gold coins and diamonds. Claimant [REDACTED] further indicated that during the Second World War, her family was forced to wear the yellow Star of David and to perform slave labor. Claimant [REDACTED] stated that her family was evicted from their home, was restricted to certain neighborhoods, and was no longer allowed to own items such as a car or a telephone. Claimant [REDACTED] added that she and her family were liberated by the Russians in 1945, and then suffered persecution at their hands after the War. Claimant [REDACTED] stated that her sister and brother-in-law left Romania in 1958, moving first to Greece, then to Turkey, Israel, and Canada before finally settling in 1968 in Chicago, Illinois. Claimant [REDACTED] stated that her sister and brother-in-law did not have any children. According to Claimant [REDACTED], she and her husband left Romania in 1961 and traveled to Paris before finally emigrating to the United States. Claimant [REDACTED] stated that she became a United States citizen in 1968 and was able to utilize family unification laws to sponsor the visas of Margueritte and Andrei Badulianu. Claimant [REDACTED] indicated that her sister died on 5 May 2000 and that her brother-in-law died on 21 May 1992, both in Chicago.

Claimant [REDACTED] submitted the birth certificate of her sister, Claimant Badulianu, showing that Claimant Badulianu's parents were [REDACTED] and [REDACTED], née [REDACTED], and that she was born in Bucharest; the birth certificate of her brother-in-law, Andrei Badulianu; the marriage certificate of Andrei Badulianu and Claimant Badulianu, showing that they were married in Bucharest; the death certificates of Andrei Badulianu and Claimant Badulianu; an excerpt from Claimant Badulianu's will, showing that her sister, Claimant [REDACTED], is her sole heir; a Quit Claim Deed, dated 2 July 1998, creating a joint tenancy in real property between Claimant Badulianu and Claimant [REDACTED]; the marriage certificate from her mother's second marriage, showing that her mother had two daughters, Margueritte and [REDACTED]; and her own birth certificate, stating that her parents were

[REDACTED] and [REDACTED]. The documents submitted by Claimant [REDACTED] show that the family name of her relatives was alternatively spelled as “Baduleanu” or “Badulianu.”

Claimant [REDACTED] stated that she was born on 9 July 1923 in Bucharest. Claimant Badulianu stated that she was born on 26 June 1920.

Claimant [REDACTED] previously submitted an IQ with the Court in 1999 and an HCPO claim form in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED].

Information Available in the Bank’s Records

The Bank’s records consist of extracts from suspense account ledgers and a numbered account registry card. According to these records, the Account Owners were Andrei and Margaret Baduleanu of Bucharest, Romania. The Bank’s records indicate that the Account Owners held one numbered account, the type of which is not indicated, held under the designation 9793. The Bank’s records further indicate that the account was considered dormant by the Bank and was transferred to a suspense account for dormant assets on or before 6 December 1948, on which date the amount in the account was 44.50 Swiss Francs (“SF”). The account was included on another suspense account ledger on 4 March 1953 with a balance of SF 44.50. The Bank’s records do not show when the account at issue was closed.

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”) did not find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank’s records that the Account Owners 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 four claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The names and country of residence of Claimant Badulianu and her husband (Claimant [REDACTED]’s sister and her sister’s husband) match the published names and country of residence of the Account Owners. The Claimants identified the city of residence of the Account Owners, which matches unpublished information about the Account Owners contained in the Bank’s records.

In support of her claim, Claimant [REDACTED] submitted documents, including the birth certificate of her sister, Claimant Badulianu, showing that Claimant Badulianu was born in Bucharest; the birth certificate of her brother-in-law, Andrei Badulianu; the marriage certificate of Andrei Badulianu and Claimant Badulianu, showing that they were married in Bucharest; and the death certificates of Andrei Badulianu and Claimant Badulianu, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owners.

The CRT notes that neither Claimant claimed this account. The CRT considers it plausible that this joint account was opened by Claimant Badulianu's husband⁷ and that neither Claimant Badulianu nor Claimant [REDACTED] were aware that it existed. The CRT notes that the names Margaret Baduleanu and Andrei Baduleanu each appear 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 "ICEP List"). Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED] has made a plausible showing that the Account Owners were Victims of Nazi Persecution. Claimant [REDACTED] stated that the Account Owners were Jewish and that they were forced to wear the yellow Star of David and to perform slave labor. Claimant [REDACTED] stated that the Account Owners were evicted from their home and restricted to certain neighborhoods.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that Claimant Badulianu was Account Owner M. Baduleanu, and that Account Owner A. Baduleanu was Claimant Badulianu's husband. Claimant [REDACTED] has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were her sister and her brother-in-law. These documents include the birth certificate of her sister, Claimant Badulianu, showing that her parents were [REDACTED] and [REDACTED], née [REDACTED]; the marriage certificate of Andrei Badulianu and Claimant Badulianu; an excerpt from Claimant Badulianu's will, stating that her sister, Claimant [REDACTED], is her sole heir; a Quit Claim Deed, dated 2 July 1998, creating a joint tenancy in real property between Claimant Badulianu and Claimant [REDACTED]; the marriage certificate from her mother's second marriage, showing that her mother had two daughters, Margueritte and [REDACTED]; and her own birth certificate, stating that her parents were [REDACTED] and [REDACTED]. There is no information to indicate that the Account Owners have other surviving heirs.

⁷ As noted above, Andrei Badulianu died on 21 May 1992, before either of the Claimants made a claim to the HCPO, submitted an IQ to the Court, or submitted a Claim Form to the CRT.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account on or before 6 December 1948. The CRT notes that the Account Owners resided in Romania until 1958, and would not have been able to access their account after the War. Given that there is no record of the payment of the Account Owners' account to them, nor any record of a date of closure of the account, and 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 (h), (i) and (j), as provided in Article 28 of 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners were, in the case of Claimant Badulianu, herself and her husband, and in the case of Claimant [REDACTED], her sister and her brother-in-law, and those relationships justify 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 account.

Amount of the Award

In this case, the Account Owners held one account of unknown type. The Bank's records indicate that the value of the account as of 6 December 1948 was SF 44.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 260.00, which reflects numbered account fees and standardized bank fees charged to the account between 1945 and 1948. Consequently, the adjusted balance of the account at issue is SF 304.50. According to Article 29 of the Rules, if the amount in an unknown type of account was less than SF 3,950.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 25(2) of the Rules, if a joint account is claimed by relatives of only one or some of the joint account owners, it shall be presumed that the account was owned as a whole in equal shares by the account owner whose shares of the account have been claimed. In this case, since Claimant Badulianu was one of the Account Owners, she would be entitled to the entire award amount. However, the CRT notes that Claimant Badulianu did not claim this account, and

that both she and her husband died prior to the inception of the Claims Resolution Process. The CRT further notes that Claimant [REDACTED] has stated that the Account Owners have no children and has provided the CRT with a copy of Claimant Badulianu's will, which shows that her sister, Claimant [REDACTED], is her sole heir. Claimant [REDACTED] also submitted a Quit Claim Deed, dated 2 July 1998, which created a joint tenancy in real property between Claimant Badulianu and Claimant [REDACTED] and which demonstrates Claimant Badulianu's intent to confer her estate onto her sister. Moreover, 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 who have submitted a claim. Given these unique circumstances, the CRT has determined that Claimant [REDACTED] is entitled to the entire 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
9 March 2005