

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]

in re Account of Albert Baer

Claim Number: 770069/WT¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Albert Bär. This Award is to the published account of Albert Baer (the “Account Owner”), over which Bessie Baer, née Mark, (“Power of Attorney Holder Bessie Baer”) and Fritz Baer (“Power of Attorney Holder Fritz Baer”) (together the “Power of Attorney Holders”) held power of attorney, at the Basel branch of the [REDACTED](the “Bank”).²

All awards are published. 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 an Initial Questionnaire (“IQ”) identifying the Account Owner as his father, Albert Bär, who lived in Karlsruhe, Germany. The Claimant indicated that his father, who was Jewish, deposited assets in Switzerland, anticipating that his family would emigrate there from Germany. The Claimant indicated that he entered Switzerland illegally in February 1942, that he was arrested and sent to a camp at Bueren, Switzerland, and that he was released to his grandparents in May 1942. The Claimant further indicated that he was detained in prison

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0005020, 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 770069.

² 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”), the names Albert Baer and Albert Bär appear three times and once, respectively. Upon careful review, the CRT has determined that the two other persons listed as Albert Baer and the one listed as Albert Bär are not the same person addressed in the aforementioned decision and, consequently, the Claimant did not identify these other account owners as his relatives.

camps during the Second World War, one in Avize, France, and later one in Rivesalte, France. The Claimant indicated that he was born on 1 September 1925. In an attempt to contact the Claimant to learn more about his family, the CRT learned that the Claimant had since passed away.³

Information Available in the Bank's Records

The Bank's records consist of two power of attorney forms, dated 9 October 1930 and 17 July 1931. According to these records, the Account Owner was Albert Baer, a factory owner (*Fabrikant*), and the Power of Attorney Holders were *Frau* (Mrs.) Bessie Baer, née Mark, and *Herrn* (Mr.) Fritz Baer, all of whom resided at Moltkestrasse 35, Karlsruhe, Germany. The Bank's records indicate that the Account Owner held one custody account, numbered 36120.⁴ The Bank's records do not indicate the value of this account.

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 Owner, the Power of Attorney Holders or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and city and country of residence match the published name and city and country of residence of the Account Owner.⁵ The CRT notes that the Claimant provided his father's name and city and country of residence in the IQ that he filed with the Court in 1999, prior to the publication of this information in February 2001 on the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

³ See <http://ssdi.rootsweb.com/cgi-bin/ssdi.cgi>.

⁴ The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

⁵ The CRT also notes that, in German, the symbol ä is also written as ae.

The CRT notes that the Claimant did not identify the Power of Attorney Holders. However, the Claimant submitted an IQ, which did not solicit as much information regarding claimants' families as claim forms, and, when the CRT attempted to contact the Claimant for further information, it learned that he had passed away, and therefore could not provide additional information.

The CRT further notes that a database containing the names of victims of Nazi persecution includes a person named Albert Baer, and indicates that his date of birth was 1880 and place of birth was Karlsruhe, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city of residence than the city of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 he was living in Nazi Germany. The CRT further notes that the Claimant, the Account Owner's son, was interned at two labor camps in France during the Second World War. As noted above, a person named Albert Baer was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father. The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner and his 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 (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 Owner, the Power of Attorney Holders, 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 Owner was his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held 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 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 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
27 February 2007