

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],

and to Claimant [REDACTED 3]

in re Account of Alexander Barta

Claim Number: 217104/HS;¹ 500777/HS²

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based up on the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) (together, the “Claimants”) to the published account of Alexander Barta at the Lucerne branch of the [REDACTED] (the “Bank”).

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 [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her father, Alexander Barta, who was born on 14 December 1899 in Budapest, Hungary, and was married to [REDACTED], née [REDACTED], in 1926 in Budapest. Claimant [REDACTED 1] indicated that her parents had two children: herself and represented party [REDACTED 2]. According to Claimant [REDACTED 1], her father, who was Jewish, worked as a bookkeeper and clerk, and resided from 1933 to 1944 at 18 Hegedus Sandor utca in Budapest. Claimant [REDACTED 1] further indicated that following the Nazi occupation of Hungary, her father was deported to the

¹ Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted two Claim Forms, which were registered under the Claim Numbers 217104 and 212257. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 217104.

² Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) submitted an additional claim to the published accounts of [REDACTED], which was registered under the Claim Number 500368. On 25 October 2004, the Court approved an Award to Claimant [REDACTED 3] for those accounts.

Türkheim-Kaufering concentration camp, where he died in 1945. Claimant [REDACTED 1] indicated that her mother died in 1958 in Melbourne, Australia.

In support of her claim, Claimant [REDACTED 1] submitted documents including: her parents' marriage certificate, dated in 1926 in Budapest, indicating that Sandor (Alexander) Barta was born in Budapest and that he resided there; Claimant [REDACTED 1]'s own birth certificate, dated in 1929 in Budapest, indicating that her father was Sandor (Alexander) Barta; an excerpt from the death register of Bad Arolsen, Germany, indicating that Alexander Sandor Barta, who last resided in Budapest, died in Kaufering on 23 April 1945.

Claimant [REDACTED 1] indicated that she was born on 9 March 1929 in Budapest. Claimant [REDACTED 1] is representing her brother, [REDACTED 2], who was born on 4 August 1936, also in Budapest.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as Alexander Barta (Bartha), the father of his friend and benefactor, the late [REDACTED], née [REDACTED].³ According to the documents and information provided by Claimant [REDACTED 3], [REDACTED]' father, who was Jewish, was born in 1877 in Esztergom, Hungary (approximately 46 kilometers northwest of Budapest), and was married in Hungary in approximately 1900 to [REDACTED], née [REDACTED]. Additionally, according to the materials submitted by Claimant [REDACTED 3], in 1904 Alexander Barta resided in Madefalva, Csik, Hungary (present-day Siculeni, Ciuc, Romania), where he managed a timber warehouse. Claimant [REDACTED 3] indicated that Alexander and [REDACTED] had two children: [REDACTED], who was born in 1904 in Madefalva and [REDACTED]. In telephone conversations with the CRT on 17 and 23 February 2005, Claimant [REDACTED 3] indicated that Alexander Barta may have resided in Budapest before the Second World War, but that his exact residence is impossible to determine at this point, given the lack of documentation and the fact that Alexander Barta's daughter, [REDACTED], passed away seven years before Claimant [REDACTED 3] submitted his claim to the CRT.

According to Claimant [REDACTED 3], Alexander and [REDACTED] fled Europe and emigrated to New York, New York, the United States, possibly in 1940 or later, by which time [REDACTED] had already settled there. Claimant [REDACTED 3] further indicated that Alexander Barta's other daughter, [REDACTED], died in approximately 1944 during the Holocaust. Claimant [REDACTED 3] stated that Alexander and [REDACTED] resided in New York, until they passed away, sometime in the 1960s. Claimant [REDACTED 3] indicated that [REDACTED] died on 3 February 1996, also in New York.

In support of his claim, Claimant [REDACTED 3] submitted documents, including: [REDACTED]' birth certificate, dated in 1904 in Madefalva, naming her father as Alexander Barta, and indicating his Jewish faith, his profession, his birthplace in Esztergom, and his residence in Madefalva at that time; [REDACTED]' marriage certificate, dated in August 1938

³ The CRT notes that the Claimant indicated that the name could be spelled either "Barta" or "Bartha" and that the documents submitted by Claimant [REDACTED 3] contain both spellings.

in Amsterdam, The Netherlands, indicating that her father was Alexander Barta; [REDACTED]' notarized will, dated in August 1994, naming Claimant [REDACTED 3] as the heir to her residuary estate; [REDACTED]' death certificate, dated 3 February 1996 in New York, indicating her Hungarian origin and naming her father as Alexander Barta; and letters testamentary pertaining to the estate of [REDACTED], dated in November 1997 in New York, naming Claimant [REDACTED 3] as one of two executors.

Claimant [REDACTED 3] indicated that he was born on 10 April 1945 in New York, New York.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Alexander Barta. The customer card does not contain any information about the Account Owner's domicile. However, 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 that the Account Owner resided in Hungary.

According to the Bank's record, the Account Owner held a demand deposit account, which was opened on 5 August 1939. The Bank's record contains an undated notation that the Bank was instructed to hold all correspondence. The Bank's record also indicates that the account was closed on 16 February 1956, but does not indicate the amount in the account when it was closed. There is no evidence in the Bank's record that the Account Owner or his 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1]'s father's name and country of residence match the published name and country of residence of the Account Owner. In support of her claim, Claimant [REDACTED 1] submitted documents, including her parents' marriage certificate, her own birth certificate, and an excerpt from the death register of Bad Arolsen, providing independent verification that the person who is claimed to be the Account Owner had the same name and country of residence as those of the Account Owner appearing in the Bank's record.

Claimant [REDACTED 3]

The name of [REDACTED]' father also matches the published name of the Account Owner. In support of his claim, Claimant [REDACTED 3] submitted the birth, marriage, and death certificates of [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name as that of the Account Owner appearing in the Bank's record.

The CRT notes that [REDACTED]' father's former residence, Madefalva/Siculeni, is located in Northern Transylvania, which belonged to Romania from 1918 to 1940,⁴ meaning that if he resided there in 1939, the year the account was opened, his country of residence would have been Romania rather than Hungary. However, there is no evidence to indicate that [REDACTED]' father resided in Northern Transylvania by that date; nor does the report of the auditors who carried out the ICEP Investigation reveal the source or the date of the determination of the Account Owner's residence. Additionally, Claimant [REDACTED 3] indicated that [REDACTED]' father may have resided in Budapest; and [REDACTED]' birth certificate indicates that her father was born near Budapest, which remained in Hungarian territory throughout the relevant period. Therefore, the CRT determines that [REDACTED]' father resided in the same country as the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 3]'s friend's relative are not the same person. However, the Claimants have identified all information about the Account Owner that is available in the Bank's record and the report of the auditors who carried out the ICEP Investigation. Additionally, the information provided by each claimant supports and in no way contradicts any information available in the Bank's record and the auditors' report and there is no additional information in these documents which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner. Furthermore, the two other claims to this account were disconfirmed for the following reasons: one claimant provided 1936 as a date of death for the claimed account owner, which predates the 1939 opening date of the account; and the other claimant indicated that the claimed account owner originally used a different surname and did not change his surname to Barta until 1945, whereas the account was opened under the surname Barta in 1939. Given the foregoing, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1]

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish and submitted an excerpt from the death register of Bad Arolsen, indicating that the Account Owner died in Kaufering.

⁴ See http://www.encyclopedia.com/html/section/Transylv_History.asp and <http://www.lonelyplanet.com/destinations/europe/romania/history.htm>.

Claimant [REDACTED 3]

Claimant [REDACTED 3] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] submitted [REDACTED]' birth certificate, indicating the Account Owner's Jewish faith. Additionally, Claimant [REDACTED 3] indicated that the Account Owner fled Europe in 1940 or later, and that one of his daughters died during the Holocaust.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and her birth certificate, demonstrating that the Account Owner was her father. There is no information to indicate that the Account Owner has surviving heirs, other than the party whom Claimant [REDACTED 1] is representing.

Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly demonstrated that he is the heir of the Account Owner's child by submitting specific information and documents, demonstrating that [REDACTED] was the Account Owner's daughter and that Claimant [REDACTED 3] is the heir to her residuary estate. These documents include: the birth, marriage, and death certificates of [REDACTED], and her will. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With respect to Claimant [REDACTED 1]'s relative, given that the Account Owner was deported to a concentration camp where he perished in 1945, whereas the account was not closed until 1956; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's 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 (b), (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 or his 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.

With respect to Claimant [REDACTED 3]'s relative, given that there is no record of the payment of the Account Owner's account to him or his heirs; that the Account Owner 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 (b), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her father and Claimant [REDACTED 3] has plausibly demonstrated that he is the heir of the Account Owner's daughter, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a demand deposit 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the Account Owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the Account Owner, the award may provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would otherwise be entitled under the Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner.

With respect to Claimant [REDACTED 1] and represented party [REDACTED 2], Article 23(1)(c) of the Rules provides that in the absence of a claim from the Account Owner's spouse, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Accordingly, as the children of the Account Owner, Claimant [REDACTED 1] and represented party [REDACTED 2] are each entitled to one-quarter of the Award amount.

With respect to Claimant [REDACTED 3], Article 23(2)(c) of the Rules provides that if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. In this case, Claimant [REDACTED 3] has

submitted the will of the Account Owner's child, naming Claimant [REDACTED 3] as heir to the child's residuary estate. Accordingly, Article 23(1)(c), which entitles the Account Owner's child to the proceeds of the account, completes the chain of inheritance between the Account Owner and Claimant [REDACTED 3]. Therefore, Claimant [REDACTED 3] is entitled to one-half of the 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
15 July 2005