

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Accounts of Jacques Baszanger, Elisabeth Baszanger and Charles Baszanger

Claim Numbers: 218890/ES; 218891/ES; 218892/ES

Award Amount: 254,125.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Jacques Baszanger (“Account Owner Jacques Baszanger”), Elisabeth Baszanger (“Account Owner Elisabeth Baszanger”) and Charles Baszanger (“Account Owner Charles Baszanger”) (together the “Account Owners”) at the [REDACTED I] (“Bank I”) and at the Geneva branch of [REDACTED II] (“Bank II”) (together the “Banks”).

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

The Claimant submitted three Claim Forms identifying Account Owner Jacques Baszanger as his paternal grandfather, Account Owner Elisabeth Baszanger as his paternal grandmother, and Account Owner Charles Baszanger as his father. The Claimant stated that his grandfather was born on 11 October 1870 in Amsterdam, The Netherlands, and was married to Elisabeth Baszanger, née Gatelet, on 29 October 1892 in Paris, France. The Claimant added that his grandmother was born on 23 May 1872 in Paris. The Claimant stated that his grandparents, who were Jewish, had one son, Charles Baszanger, the Claimant’s father, who was born on 21 November 1897 in Paris. The Claimant indicated that his grandfather and his father were diamond merchants, and that his grandfather resided at 5 Square Moncey in Paris between 1920 and 1942. The Claimant also indicated that his grandfather used to visit his family in Geneva, Switzerland. According to the Claimant, his grandfather was arrested, sent to a concentration camp at Drancy, and finally transferred to Auschwitz on 30 September 1942, where he perished on 4 October 1942. The Claimant stated that his grandmother and father remained in France during the Second World War and that his grandmother died on 9 December 1961 in Bourg La Reine, France. The Claimant also stated that his father moved to Switzerland in 1960, where he died on 10 September 1986 in Genolier. In support of his claim, the Claimant submitted his grandfather’s death certificate,

showing that Jacques Baszanger was married to Elisabeth Gatelet, resided at 5 Square Moncey in Paris, and perished at Auschwitz; his grandmother's death certificate; his parents' marriage certificate; his own birth and marriage certificates indicating his father was Charles Baszanger; a list, dated 1 October 1942, containing the names of Jews transported from Drancy to Auschwitz, and including the name, date, place of birth, and place of residence of the Claimant's grandfather; and his grandparents' marriage certificate, which includes the signature of the Claimant's grandfather. The Claimant stated that he was born in Paris on 5 May 1921.

Information Available in the Banks' Records

Bank I

Bank I's records consist of a list of accounts transferred in 1946 to the acquiring bank as the result of the acquisition of Bank I, a customer card, and a printout from Bank I's database. According to these records, the Account Owners were Jacques Baszanger, a French national, and his wife, Elisabeth Baszanger, née Gatelet, who resided at 5 Square Moncey in Paris, France. Bank I's records indicate that the Account Owners held a custody account and a demand deposit account, numbered 31815 at the Geneva branch of Bank I. The records further indicate that these accounts were frozen pursuant to the Swiss Federal Decree of 6 July 1940, and that their numbers were changed from 31815 to 32017 on 15 February 1946, when they were transferred from Bank I and were reopened at the acquiring bank.

According to Bank I's records, the demand deposit account was transferred to a suspense account for dormant assets on 17 April 1950. The amount in the account on the date of its transfer was 7.00 Swiss Francs. The account remains open in a suspense account at the acquiring bank.

Bank I's records do not show when the custody account was closed, or to whom it was paid, nor do these records 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 Bank I'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 Bank I's records that the Account Owners or their heirs closed this account and received the proceeds themselves.

Bank II

Bank II's records consist of a customer card and a letter signed by Account Owner Jacques Baszanger, dated 18 January 1937. According to these records the Account Owners were Jacques Baszanger and Elisabeth Baszanger, née Gatelet, who resided at 5 Square Moncey in Paris, and the Power of Attorney Holder was their son, Charles

Baszanger. Bank II's records state that the grant of Power of Attorney would be valid only after the death of the Account Owners. Bank II's records also state that the Account Owners held a demand deposit account in Pounds Sterling, numbered 2401. In the letter dated 18 January 1937, Account Owner Jacques Baszanger requested Bank II to transfer the balance of his demand deposit account in Pounds Sterling to the account of "J. Baszanger" at the "Nat. Prov. Bk Halbron Trans Branch." Account Owner Jacques Baszanger indicated that the amount in the account on 18 January 1937 was 1,111 Pounds Sterling, 2 shillings and 7 pence, which Bank II acknowledged. Bank II's records further indicate that this account was closed by Bank II to its profit and loss account on 17 August 1949.

Bank II's records also indicate that the Account Owners held a safe deposit box, numbered 176, which was rented on 9 May 1933. The safe deposit box contract was cancelled on 24 November 1969. Bank II's records do not show to whom the safe deposit box was paid, nor do these records indicate the value of this safe deposit box. There is no evidence in Bank II's records that the Account Owners or their heirs closed the safe deposit box and received the proceeds themselves. The CRT notes that the auditors who carried out the ICEP Investigation did not report this account to the CRT. Thus, there is no further information before the CRT as to the disposition of this account.

Further, Bank II's records also indicate that Account Owner Charles Baszanger held an additional account, numbered 2793, over which Account Owners Jacques and Elisabeth Baszanger had usufruct right, (the right to use property or income from property that is owned by another). Bank II's records do not indicate the type of this account. The CRT notes that the auditors who carried out the ICEP investigation indicated there was a withdrawal of securities and cash from this account, but that there is no evidence of that withdrawal. Bank II's records do not show when this account was closed, or to whom it was paid, nor do these records indicate the value of this account. The auditors who carried out the ICEP Investigation did not find this account in Bank I'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 Bank II's records that the Account Owners or their heirs closed this 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 discretion of the Claims Judges. In this case, the CRT determines it appropriate to join the three claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has identified the Account Owners. His father's name and his grandparents' names match the published names of the Account Owners. The Claimant identified the family relationship between the Account Owners, as well as his grandparents' street address in Paris, all of which match unpublished information about the Account Owners contained in the Banks' documents. In support of his claim, the Claimant submitted his grandfather's death certificate, indicating that Jacques Baszanger was married to Elisabeth Gatelet, resided at 5 Square Moncey in Paris, and perished in Auschwitz; his grandmother's death certificate; his parents' marriage certificate; his own birth and marriage certificates, indicating his father was Charles Baszanger; and a list, dated 1 October 1942, containing the names of Jews transported from Drancy to Auschwitz, including the name, date, place of birth, and place of residence of the Claimant's grandfather. The Claimant also submitted his grandparents' marriage certificate, including the signature of the Claimant's grandfather, which matches the signature sample contained in Bank II's records. Additionally, the CRT notes that the records of Bank II recognize Account Owner Charles Baszanger as the son of Account Owner Jacques Baszanger. The CRT further notes that a database containing the names of victims of Nazi persecution includes a person named Jacques Baszanger, and indicates that his date of birth was 11 October 1870 and place of birth was Amsterdam, The Netherlands, 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 claim to these accounts was disconfirmed because that claimant provided a different maiden name than the maiden name of one of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that his grandfather perished in Auschwitz in 1942, and that his grandmother and father lived in Paris under the Nazi occupation. As noted above, a person named Jacques Baszanger was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting his grandfather's death certificate, his grandmother's death certificate, his parents' marriage certificate, his own birth and marriage certificates, and his grandparents' marriage certificate, demonstrating that he is the grandson of Account Owners Jacques and Elisabeth Baszanger and the son of Account Owner Charles Baszanger. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

With respect to the demand deposit account at Bank I, the Bank's records indicate that the demand deposit account remains open in Bank I's suspense account.

With respect to the custody account held at Bank I, the safe deposit box held at Bank II, and the account of unknown type held at Bank II, given that the custody account was frozen on 6 July 1940; that the safe deposit box remained open after the Second World War; that the account of unknown type was closed unknown when or by whom; that Account Owner Jacques Baszanger perished in Auschwitz in 1942 and his wife (Account Owner Elisabeth Baszanger) and son (Account Owner Charles Baszanger) remained in occupied France; that there is no record of the payment of the Account Owners' accounts to them or their heirs; that neither Account Owner Elisabeth Baszanger or Account Owner Charles Baszanger nor their heirs would have been able to obtain information about their accounts after the Second World War from the Banks 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; that the Account Owners had another account that remains open and suspended; and given the application of Presumptions (f), (h), 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.

With respect to the demand deposit account held in Pounds Sterling at Bank II, the CRT notes that on 18 January 1937 Account Owner Jacques Baszanger requested that Bank II transfer the balance of this account to an account held at a different bank; therefore, the CRT concludes that Account Owner Jacques Baszanger received the proceeds of this account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owners Jacques and Elisabeth Baszanger were his grandparents and that Account Owner Charles Baszanger was his father, and these 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 accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account, one custody account, one safe deposit box, and one account of unknown type. 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 demand deposit account was 2,140.00 Swiss Francs, the average value of a custody account was 13,000.00 Swiss Francs, the average value of a safe deposit box was 1,240.00 Swiss Francs, and the average value of an account of unknown type was 3,950.00 Swiss Francs. Therefore, the total 1945 average value of the accounts at issue is 20,330.00 Swiss Francs. 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 254,125.00 Swiss Francs.

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 claims 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
20 May 2004