

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
also acting on behalf of [REDACTED], [REDACTED], and [REDACTED]

## **in re Accounts of Alfred Bauer**

Claim Number: 217335/PY

Award Amount: 340,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Alfred Bauer (the “Account Owner”) at the Zurich 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 Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as his mother's friend and benefactor, Alfred Bauer, who was born on 28 December 1874 in Munich, Germany, to [REDACTED] and [REDACTED]. According to the Claimant, Alfred Bauer, who held the title *Justizrat* (judicial commissioner), was a lawyer in Munich where he lived at Odeonsplatz 2/I. The Claimant stated that Alfred Bauer remained unmarried and he did not have any children. The Claimant explained that Alfred Bauer, who was Jewish, was excluded from the bar association in Germany in 1938, that he later was arrested on 3 April 1942, and that he perished on 30 April 1942 in Piaski, Poland, while being deported to Theresienstadt.

In support of his claim, the Claimant submitted Alfred Bauer's death certificate and personal stationery, both of which indicate that he resided in Munich; Alfred Bauer's inheritance certificate, issued by the court in Munich, which indicates that Alfred Bauer's sole heir was [REDACTED] (the Claimant's mother); Alfred Bauer's and Alfred Bauer's sister's, [REDACTED], wills, which indicate that the Claimant's mother, [REDACTED], was a friend of the Bauer family and supported the Bauer family during the Nazi era, and in which she was named as their sole heir. The Claimant also submitted his mother's will, in which she bequeathed her estate in equal parts to her descendants [REDACTED] (the Claimant), [REDACTED], [REDACTED], and [REDACTED]. In addition, the Claimant submitted a letter, dated 12 May 1965, sent on behalf of [REDACTED] by an

attorney, [REDACTED], to the Swiss Federal Department of Justice, inquiring about assets in Switzerland belonging to Alfred Bauer.

The Claimant indicated that he was born on 17 April 1941 in Geiselhoering, Germany. The Claimant is representing his brothers: [REDACTED], who was born on 12 November 1938 in Nandlstadt, Germany; [REDACTED], who was born on 28 June 1942 in Geiselhoering; and [REDACTED], who was born on 16 November 1943 in Geiselhoering.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Alfred Bauer.

### **Information Available in the Bank's Records**

The Bank's records consist of two customer cards. According to these records, the Account Owner was Alfred Bauer, who resided at Pettenkofenstrasse 39/I in Munich, Germany. The Bank's records indicate that the Account Owner held one safe deposit box and two custody accounts, one of which was unnumbered and opened on 13 May 1924, and the other which was numbered 49901 and opened on an unknown date.

The Bank's records indicate that the safe deposit box was closed on 16 January 1937 and the custody account, numbered 49901, was closed on 16 February 1937. The amounts in the accounts on the respective dates of their closure are unknown. 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 the unnumbered custody 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 or his heirs closed the accounts and received the proceeds themselves.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His mother's benefactor's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified his mother's benefactor's city of residence as Munich, which matches unpublished information about the Account Owner contained in the Bank's records. In support of his claim, the Claimant submitted Alfred Bauer's death certificate and personal stationery, both of which indicate that he resided in Munich; Alfred Bauer's inheritance certificate, issued by the court in Munich; Alfred Bauer's will; and a letter, dated 12 May 1965, sent on behalf of [REDACTED] by an attorney, [REDACTED], to the Swiss Federal Department of Justice, inquiring about assets in

Switzerland belonging to Alfred Bauer. These documents provide independent verification that the person claimed to be the Account Owner has the same name as the person recorded in the Bank's records; and Alfred Bauer's death certificate, personal stationery, and inheritance certificate provide independent verification that the person claimed to be the Account Owner resided in the same city as the Account Owner's residence recorded in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Alfred Bauer, and indicates that his date of birth was 28 December 1874 and place of birth was Munich, and that he perished in Piaski, 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 further notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Alfred Bauer, prior to the publication in February 2001 of 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 claim not simply on the fact that a person identified on the ICEP List as owning a Swiss bank account bears the same name as his mother's benefactor. It also indicates that the Claimant had reason to believe that his mother's benefactor owned a Swiss bank account prior to the publication of the ICEP list. This supports the credibility of the information provided by the Claimant.

Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than that 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, who was Jewish, was excluded from the bar association in Germany in 1938, that he later was arrested on 3 April 1942, and that he perished on 30 April 1942 in Piaski, Poland, while being deported to Theresienstadt. As noted above, a person named Alfred Bauer was included in the Yad Vashem database.

#### The Claimant's Relationship to the Account Owner

The Claimant has asserted that the Claimant's mother was a friend of the Bauer family and that she supported the family during the Nazi era. The Claimant has plausibly demonstrated, by submitting specific information and documents, that the Account Owner intended that on his death his assets be given to the Claimant's mother. These documents include Alfred Bauer's inheritance certificate, which indicates that Alfred Bauer's sole heir was [REDACTED] (the Claimant's mother); Alfred Bauer's will in

which [REDACTED] was named as his sole heir and that he intended that his assets be paid to the Claimant's mother on his death; and the Claimant's mother's will.

#### The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until he was arrested on 3 April 1942, and that he perished on 30 April 1942 in Piaski, Poland, while being deported to Theresienstadt; that the Account Owner would not have been able to repatriate his accounts to Germany without their confiscation; that the Account Owner and his heirs would not have been able to obtain information about his accounts 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 accounts 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.

#### 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 Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his mother's benefactor, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held two custody accounts and one safe deposit box. 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 and the average value of a safe deposit box was 1,240.00 Swiss Francs. As there are two custody accounts and one safe deposit box at issue, their total 1945 average value is 27,240.00 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 340,500.00 Swiss Francs.

### Division of the Award

According to Article 23(2)(b) of the Rules, if none of the named beneficiaries of an Account Owner's will has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of will or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. In this case, the Claimant submitted the Account Owner's inheritance certificate, which names the Claimant's mother, [REDACTED], as his sole heir, as well as [REDACTED]'s will, which indicates that her heirs are the Claimant and his three brothers, whom he represents. Accordingly, the Claimant and his three brothers are each entitled to one-quarter of the total award amount.

### **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  
6 February 2004