

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3]

in re Account of Walter Bauer

Claim Number: 777748/DE; 400801/DE¹

Award Amount: 12,126.88 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Carl Bauer.² This Award is to the unpublished account of Walter Bauer (the “Account Owner”) at the [REDACTED 1] (the “Bank”).

All awards are published, but where claimants have requested confidentiality, as in this case, the names of the claimants, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are cousins, submitted an Initial Questionnaire and Claim Form, respectively, identifying the Account Owner as their paternal uncle, Walter Bauer, who was born on 8 August 1901 in Vienna, Austria. The Claimants stated that their paternal grandfather, [REDACTED], had three sons: [REDACTED] (Claimant [REDACTED 2]’s father), [REDACTED] (Claimant [REDACTED 1]’s father), and Walter, who had no children. The Claimants indicated that their grandfather, who was Jewish, owned a bank, *Bank und Wechselgeschäft Albert Bauer*, and that each of his sons (who were also Jewish)

¹ [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0299 028, 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 777748.

² In separate decisions, the CRT awarded the accounts of Karl Bauer and Carl Bauer to the Claimants. See *In re Account of Karl Bauer* and *In re Account of Carl Bauer* (both approved on 19 July 2007).

inherited an interest in the bank after [REDACTED]'s death in 1937. The Claimants stated that their grandfather's bank was aryanized and then liquidated by the Nazis.

Claimant [REDACTED 1] stated that his father died in approximately 1933 and that his mother remarried in September 1938. Claimant [REDACTED 1] explained that he, his mother, and her second husband fled to Switzerland in October 1938 and remained there through January 1939, when they were forced to leave. According to Claimant [REDACTED 1], they then resided in Paris, France, for one week in February 1939, before moving to London, England, where they remained until coming to the United States in February or March 1939.

According to the Claimants, [REDACTED] died on 16 June 1932, [REDACTED] died on 4 April 1974, and Walter Bauer died in 1992 in San Diego, California, the United States.

In support of his claim, Claimant [REDACTED 2] submitted copies of various documents, including his grandfather's death registration, which indicates that [REDACTED] was a banker and the sole owner of the bank *Bank und Wechslergeschäft Albert Bauer*, that he was Jewish, that he died on 20 November 1937, that his wife was [REDACTED], née [REDACTED] and that he had three sons: [REDACTED], Walter, and [REDACTED]. According to this document, [REDACTED] resided in Prague, Walter Bauer resided in Vienna, and [REDACTED] died on 16 June 1932, leaving behind two children, [REDACTED 1] and [REDACTED 3], who resided with their mother, [REDACTED], in Vienna. Claimant [REDACTED 2] also submitted his grandfather's will, dated 28 September 1937, indicating that [REDACTED]'s beneficiaries included his wife, [REDACTED], his two surviving sons, [REDACTED] and Walter, [REDACTED] (the widow of his late son [REDACTED]), and [REDACTED]'s children, [REDACTED 1] and [REDACTED 3]. The document also indicated that [REDACTED]'s surviving sons, [REDACTED] and Walter, were to share a partnership in his property including: the *Bank und Wechslergeschäft Albert Bauer*, business interests in various magazines and a Viennese lottery and a real estate company, *Realitätenbüro Walter Bauer & Co.*

Claimant [REDACTED 2] also submitted: 1) a memo dated November 1939 regarding the settlement of the estate of [REDACTED], which indicates that Walter Bauer was living in France at an undisclosed residence at the time of the proceeding; 2) a letter dated 15 April 1940 indicating that that *Bank und Wechslergeschäft Albert Bauer* was in liquidation; 3) a document dated November 1941 indicating that the real estate [REDACTED 1] and [REDACTED 3] inherited from their grandfather was aryanized and sold to a notary in Vienna in 1941 and that the proceeds from this sale were put into a blocked account for emigrants (*Auswanderersperrkonto*) at a Viennese bank; 4) an application for aid to Nazi victims filed by Walter Bauer in 1961; 5) a document filed by Walter Bauer in March 1962, seeking restitution in Austria, in which Walter indicates that he and his brother [REDACTED] paid atonement tax (*Judenvermögensabgabe*) and flight tax (*Reichsfluchtsteuer*); 6) affidavits from restitution proceedings dated 7 November 1963, in which Walter Bauer, [REDACTED 1], who is noted to have changed his name to [REDACTED 1], and [REDACTED 3], waived their claim for restitution in Austria in order that Albert Bauer, residing in France, may proceed with the claim; 7) a letter from the International Tracing Service dated 22 September 1980, indicating that [REDACTED], née [REDACTED], who was Jewish, perished in Theresienstadt on 26 September 1942; and 8) a print out from the Social Security Death Index indicating that Walter Bauer, who was born on 8 August 1901, last resided in San Diego, California, and died in 1992.

Additionally, Claimant [REDACTED 2] and Claimant [REDACTED 1] submitted records filed by family members pursuant to a Nazi decree requiring the registration of assets. These records are described in detail below.

Claimant [REDACTED 1] indicated that he was born [REDACTED 1] on 6 October 1927 in Vienna. Claimant [REDACTED 2] indicated that he was born on 28 March 1935 in Prague, Czechoslovakia (now the Czech Republic). Claimant [REDACTED 2] is representing his cousin, (Claimant [REDACTED 1]'s brother), [REDACTED 3], who was born on 13 January 1930 in Vienna. Claimant [REDACTED 2] indicated that he and his cousins are the only remaining descendants of their grandfather [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of an excerpt from a list of account owners that was prepared by 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"). According to this record, the Account Owner was Walter Bauer. This record does not indicate the Account Owner's domicile. The auditor's report indicates that the Account Owner held a savings/passbook account, numbered 213. The auditors indicated that the amount in the account as of 2001 was 5.15 Swiss Francs ("SF"). The account remains open and dormant.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance) there are documents concerning the assets of Walter Bauer, [REDACTED], [REDACTED 1] and [REDACTED 3]. Copies of the records for [REDACTED] and [REDACTED 1] were submitted by both Claimant [REDACTED 2] and Claimant [REDACTED 1]. Claimant [REDACTED 2] also submitted copies of the records for Walter Bauer and [REDACTED 3].

The file concerning the assets of Walter Bauer, numbered 13546, indicates that he was born on 8 August 1901, that he was married to [REDACTED], née [REDACTED], and that he lived at Gusshausstrasse 12 in Vienna. According to these records, Walter Bauer inherited one-third of *Bank und Wechselgeschäft Albert Bauer*, which was located at Favoritenstrasse 4 in Vienna.

The file concerning the assets of [REDACTED], née [REDACTED], numbered 14749, indicates that she resided at Schlüsselgasse 8 in Vienna, that she was widowed and that she remarried in 1939, after which she changed her name to [REDACTED]. According to these records, [REDACTED] held assets at the family bank (*Bank und Wechselgeschäft Albert Bauer*).

Documents enclosed with the records indicate that [REDACTED] completed the 1938 Census asset declaration on behalf of her minor children, [REDACTED 3] and [REDACTED 1].

The file concerning the assets of [REDACTED 1], numbered 25620, indicates that he was born on 6 October 1927, that he resided at Schlüsselgasse 8 in Vienna and that he inherited a one-fourth ownership interest in [REDACTED]'s property at Spiegelgasse 3 in Vienna. The file concerning the assets of [REDACTED 3], numbered 25177, indicates that he was born on 13 January 1930, that he also lived at Schlüsselgasse 8 in Vienna and that he inherited a one-fourth ownership interest in [REDACTED]'s property at Spiegelgasse 3 in Vienna.

The records make no mention of assets held in Swiss Bank accounts.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants' paternal uncle, Walter Bauer's name matches the unpublished name of the Account Owner. The CRT notes that the auditor's record does not contain any specific information about the Account Owner other than his name.

In support of his claim, the Claimant [REDACTED 2] submitted documents, including: 1) [REDACTED]'s death registration, which indicates that [REDACTED] had a son named Walter Bauer who resided in Vienna; 2) [REDACTED]'s will, which names his beneficiaries, including his son Walter Bauer, who was to receive business interest in his property; 3) a memo dated November 1939, indicating that Walter Bauer was living in France at that time; 4) an application for aid to Nazi victims filed by Walter Bauer in 1961; 5) a document filed by Walter Bauer in March 1962, seeking restitution in Austria; and 6) affidavits from restitution proceedings in Austria dated 7 November 1963, in which Walter Bauer, [REDACTED 1], and [REDACTED 3], waived their claim for restitution in order that [REDACTED], who resided in France, may proceed with the claim. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and fled Austria after the *Anchluss*, that his family bank and other property were seized by the Nazis, and that the Account Owner's mother perished in Theresienstadt. The CRT notes that the Account Owner and other family members were required to register his assets pursuant to the 1938 Census.

The Claimant's Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was their paternal uncle. These documents include: 1) [REDACTED]'s death registration, which indicates that [REDACTED] was the father of Walter, [REDACTED], and [REDACTED] and the grandfather of [REDACTED 1] and [REDACTED 3]; 2) [REDACTED]'s will indicating that [REDACTED]'s beneficiaries included his two surviving sons, [REDACTED](Claimant [REDACTED 2]'s father) and Walter Bauer, and [REDACTED], the wife of his late son [REDACTED], and their children, [REDACTED 1] and [REDACTED 3]; 3) a document dated November 1941, indicating that [REDACTED 1] and [REDACTED 3] inherited real estate from their grandfather [REDACTED]; 4) affidavits from restitution proceedings in Austria dated 7 November 1963, in which Walter Bauer, [REDACTED 3], and [REDACTED 1] are represented.

As noted above, Claimant [REDACTED 2] indicated that he and his cousins are the only remaining descendants of their grandfather [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 2] is representing.

The Issue of Who Received the Proceeds

The auditor's report indicates that the account remains open and dormant.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants and the party Claimant [REDACTED 2] represents. 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 Owner was their paternal uncle, and that relationship justifies an Award. Third, the CRT has determined 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 one savings/passbook account. The auditor's report indicates that the value of the savings/passbook account as of 2001 was SF 5.15. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 965.00, which

reflects standardized bank fees charged to the savings/passbook account between 1945 and 2001. Consequently, the adjusted balance of the account at issue is 970.15. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 12,126.88.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 2] is representing his cousin (Claimant [REDACTED 1]'s brother), [REDACTED 3]. Accordingly, Claimant [REDACTED 2] is entitled to one-half of the award amount, or SF 6,063.44, and Claimant [REDACTED 1] and his brother, represented party [REDACTED 3], are entitled to share equally the other half of the total award amount, or SF 3,031.72 each.

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
18 December 2007