

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Accounts of Ottokar Baumann

Claim Numbers: 401658/AZ; 401660/AZ

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the published accounts of Ottokar Baumann (the “Account Owner”), over which Bertha Baumann (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).¹

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 Claim Forms identifying the Account Owner and Power of Attorney Holder as his maternal grandparents, Ottokar (Otakar) Baumann and Bertha Baumann, née Adler, who were born on 22 November 1872 in Kutna Hora/Malesov, Austria-Hungary (now the Czech Republic) and on 28 July 1879 in Kosova Hora, Austria-Hungary (now the Czech Republic), respectively, and were married in Czechoslovakia. The Claimant indicated that his grandparents, who were Jewish, lived in Prague, Czechoslovakia (now the Czech Republic), where his grandfather was a chemist and owned a shoe polish factory and where his grandmother was a housewife. The Claimant stated that his grandparents had three children: [REDACTED], née [REDACTED] (the Claimant’s mother), who was born on 16 November 1906; [REDACTED], née [REDACTED]; and [REDACTED]. The Claimant indicated that his mother deposited money in a Swiss bank account on behalf of his grandparents. According to the Claimant, his grandparents remained in Prague until 1940 or 1941, when they fled to the United

¹ The CRT notes that, on the January 2005 published list of additional accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “2005 List”), the names Bertha Baumann and Ottokar Baumann are both published as account owners. Upon careful review, the CRT has concluded that the Bank’s records evidence that Ottokar Baumann owned the accounts and that Bertha Baumann acted as power of attorney.

States. The Claimant indicated that his grandparents and their children are no longer alive, and that he and his brother, whom he represents, are his grandparents' only surviving descendants.

The Claimant submitted copies of documents, including: 1) his grandfather's death certificate, indicating that Otakar Baumann was born in Czechoslovakia, that he died in 1951 at age 78, that he was a retired chemist, and that he was married to Bertha Baumann; and 2) his mother's death certificate, dated in 1997, indicating that [REDACTED] was born on 16 November 1906 in Czechoslovakia and that her parents were Otakar Baumann and Bertha Adler.

The Claimant indicated that he was born on 21 April 1936 in Prague. The Claimant is representing his brother, [REDACTED], who was born on 5 February 1938 in Prague.

Information Available in the Bank's Records

The Bank's records consist of an account opening contract, a description of their terms, signature samples, and printouts from the Bank's database. According to these records, the Account Owner was Ottokar Baumann, who resided in Prague, Czechoslovakia, and the Power of Attorney Holder was his spouse, Bertha (Berta) Baumann (Baumannova), née Adler. The Bank's records further indicate that correspondence was sent to in care of *IMPAG Chemie Import A.G. Schweiz Industrieller* in Zurich, Switzerland, to the Account Owner's attention. The Bank's records indicate that the Account Owner held a custody account and a demand deposit account, numbered 20112, which were both opened on 8 December 1923.

The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts 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 the two claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandparents' names match the published names of the Account Owner and Power of Attorney Holder. The Claimant identified the Account Owner's city and country of residence, the Power of Attorney Holder's maiden name, and the relationship between the Account Owner and the Power of Attorney Holder, which match unpublished information contained in the Bank's records. The CRT further notes that the profession of the person who is claimed to be the Account Owner is consistent with the unpublished correspondence address contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his mother's and grandfather's death certificates, providing independent verification that the persons who are claimed to be the Account Owner and Power of Attorney Holder had the same names and relationship and resided in the same country recorded in the Bank's records as the names, relationship, and country of residence of Account Owner and Power of Attorney Holder, and that the person who is claimed to be the Power of Attorney Holder had the same maiden name recorded in the Bank's records as the maiden name of the Power of Attorney Holder. The CRT further notes that these documents also provide independent verification that the person who is claimed to be the Account Owner was a chemist.

The CRT notes that there are no other claims to this account.

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 lived in Prague until 1940 or 1941, when he fled to the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's maternal grandfather. The CRT further notes that the Claimant identified unpublished information about the Account Owner and Power of Attorney Holder as contained in the Bank's records. The CRT further notes that the Claimant submitted copies of the Account Owner's death certificate and of the Account Owner's daughter's death certificate. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and that they also indicate that the Account Owner's daughter's married name is the same as the Claimant's surname. There is no information to indicate that the Account Owner has surviving heirs other than the Claimant's brother, whom he is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner was Jewish and that he resided in Prague until 1940 or 1941, when he fled to the United States; that there is no record of the payment of the Account Owner's accounts to him, nor any record of a date of closure of the accounts; 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 (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 Holder, 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 and represented party [REDACTED]. First, the claims are 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 grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs, received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one 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 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") and the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value of the two accounts is SF 15,140.00. 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 189,250.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother, [REDACTED]. Accordingly, the Claimant and his brother, [REDACTED], are each entitled to one-half 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 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
23 March 2007