

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Account of Amalie Bendit

Claim Number: 221977/MBC

Award Amount: 22,898.13 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Amalie Bendit (the “Account Owner”) at the Locarno 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 paternal grandmother, Amalie Margarethe Bendit, née Herzfeld, who was born on 14 January 1886 in Rosswein, Germany, to [REDACTED], née [REDACTED], and [REDACTED]; and was married to [REDACTED] on 19 November 1913 in Berlin, Germany, with whom she had one child, [REDACTED]. The Claimant stated that his grandmother was divorced in 1924. According to the information provided by the Claimant, his grandmother lived in Treuen, Germany, from 1914 to 1922, and at Karlstrasse 10 and Weisestrasse 4, in Plauen, Germany, from 1922 to 1941, where she worked as an employee at a family business known by the name of *Herzfeld und Danach*, and thereafter at a department store called *Dietz*. The Claimant stated that his grandmother, who was Jewish, was forced to move into a *Judenhaus* (Jewish House) in Plauen in 1939, and that she fled by boat to Argentina in 1941. The Claimant further stated that his grandmother had a relative in Switzerland whose last name was [REDACTED], with whom she regularly corresponded. Finally, the Claimant stated that his grandmother died in Buenos Aires, Argentina, in 1958.

The Claimant submitted numerous documents including his grandmother’s passport and death certificate, and a statement by his grandmother under oath, dated 21 September 1940, to an attorney in Plauen, identifying her name as Amalie Margarethe Bendit, her nationality, her date and place of birth, her marriage, and the name of her son. The Claimant also submitted his

parents' marriage certificate and his own birth certificate identifying his father's name. The Claimant indicated that he was born on 25 June 1944 in Entre-Rios, Argentina. The Claimant is representing [REDACTED], née [REDACTED], his mother, who was born on 26 July 1915 in Plauen, and [REDACTED], his brother, who was born on 2 September 1941 in Entre-Rios.

Information Available in the Bank's Records

The Bank's records consist of bank ledgers, documents relating to a survey conducted pursuant to the 1962 survey of assets held in Switzerland by missing foreigners or stateless persons who were victims of racial, religious, or political persecution (“the 1962 Survey”), and printouts from the Bank’s database. According to these records, the Account Owner was Amalie Bendit. The Bank's records indicate that the Account Owner had a correspondence address care of [REDACTED] at Villa Erica in Locarno, Switzerland. The Bank's records do not indicate the Account Owner's actual residence. The Bank's records indicate that the Account Owner held a demand deposit account.

According to the Bank's records, the Account Owner withdrew money from the account on 8 January 1945, 15 March 1945 and 7 May 1945, the latter of which corresponds to the last date on which the Account Owner had contact with the Bank. The Bank's records indicate that after 7 May 1945, the Account Owner and [REDACTED] could not be reached at the provided correspondence address, and that they did not leave a forwarding address.

The Bank's records indicate that the amount in the account was 1,816.85 Swiss Francs on 9 May 1945. According to the Bank's records, the account was transferred to a suspense account for dormant assets on 19 December 1952. 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 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 her heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s grandmother’s name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name and a correspondence address in Switzerland. The Claimant submitted numerous documents including his grandmother’s passport and death certificate, and a statement by his grandmother made under oath on 21 September 1940 to an attorney in Plauen, identifying her name as Amalie Bedit, providing independent verification that the person who is claimed to be the Account Owner had the same name as the person recorded in the Bank’s records as the Account Owner. The CRT

further notes that the name Amalie Bendit appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT finally notes that there are no other claimants to this account. 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 was Jewish, was forced to move into a *Judenhaus*, and that she fled Nazi Germany to Argentina in 1941.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that the Account Owner was his grandmother. There is no information to indicate that the Account Owner has other surviving heirs other than his mother and brother, whom he is representing in these proceedings.

The Issue of Who Received the Proceeds

Given that the Account Owner's account remained in existence after the Second World War, and particularly after the death of the Account Owner; that the Bank's records indicate that the Account Owner could not be reached at the provided correspondence address; that the account was transferred to a suspense account on 19 December 1952 and was identified in the 1962 Survey; that there is no record of the payment of the account to the Account Owner after the Second World War; 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 her 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 grandmother, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 9 May 1945 was 1,816.85 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 15.00

Swiss Francs, which reflects standardized bank fees charged to the demand deposit account between 1 January 1945 and 9 May 1945. Consequently, the adjusted balance of the account at issue is 1,831.85 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 of the Rules by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 22,898.13 Swiss Francs.

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 mother, [REDACTED], and his brother, [REDACTED]. Accordingly, as the Claimant and his brother are the only two direct descendants of the Account Owner, they are each entitled to one-half of the total award amount, and [REDACTED] is not entitled to any portion of the award.

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
8 April 2004