

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]¹
also acting on behalf of [REDACTED]

in re Account of Anna Berger

Claim Number: 003586/MG

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the account of Anna Berger (the “Account Owner”) at 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 her paternal grandmother, Mrs. Anna (Anny) Berger, who was born in Austria. The Claimant stated that her grandmother, who was Jewish, fled Austria, together with her husband and children, to Belgium, where she gave her children to local families who were willing to hide them from the Nazis. The Claimant further stated that her grandmother and grandfather, who were “well-off,” were unable to escape Nazi persecution, and between the years 1942 and 1945 the Nazis deported them to Auschwitz, where her grandfather was murdered. Her grandmother survived Auschwitz and immigrated to Israel, where she died in 1987. The Claimant indicated that she was born on 12 May 1961 in Israel. The Claimant is representing [REDACTED], her father, who was born on 8 July 1931 in Vienna, Austria.

¹ The Claimant provided her name and some of her relatives’ names only in Hebrew characters in the Claim Form. For the purpose of this written decision, the CRT has transliterated these names into Latin characters. However, to match names provided in the Claim Form with names contained in the banks’ databases, the CRT has used a database created by Yad Vashem, Israel, which provided different variations in Latin characters for each of the names.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED] and Anny Berger.

Information Available in the Bank Record

The bank record consists of a printout from the Bank's database. According to this record, the Account Owner was Anna Berger, née [REDACTED]. The bank record indicates that the Account Owner held an account of unknown type. According to this record, the account was dormant since 20 May 1938, and on 28 February 1977 the account was transferred to a suspense account with the balance of 2.45 Swiss Francs. The account remains open and dormant.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandmother's name matches the published name of the Account Owner. The CRT notes that the bank records do not contain any additional information about the Account Owner other than her name. The CRT also notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED] and Anny Berger, 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 her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT also notes that the other claims to this account were disconfirmed because the claimed account owners had different maiden names.

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 she survived the concentration camp in Auschwitz and immigrated to Israel.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that the Account Owner was her paternal grandmother.

The Issue of Who Received the Proceeds

The bank records indicate 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her 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 account of unknown type. The bank records indicate that the value of the account as of 28 February 1977 was 2.45 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

Division of the Award

According to Article 23(1) 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 of representation. The Claimant is representing her father in these proceedings. Therefore, as the Account Owner's closest descendant, the Claimant's father is entitled to receive 100% 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 her claim to determine whether there are additional Swiss bank accounts to which she 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
April 21, 2003