

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Valerie Berlitzer

Claim Number: 501216/KG¹

Award Amount: 470,135.63 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the unpublished account of Valerie Berlitzer (the “Account Owner”) at the [REDACTED] (the “Bank”).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 great-aunt, Valerie Berlitzer, née Fulda, who was born on 19 May 1870, and was married to Dr. [REDACTED]. The Claimant indicated that her great-aunt lived at Reisnerstrasse 30, Vienna III, and may later have moved to Währingerstrasse 33 in Vienna IX. The Claimant indicated that Dr. [REDACTED], who was a lawyer, died long before the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), and that Valerie Berlitzer subsequently lived from the income generated by his considerable assets. According to the Claimant, on the evening before they were to be deported in October 1941, Valerie Berlitzer, who was Jewish, and her close relatives committed suicide.

In support of her claim, the Claimant submitted portions of the declaration made by her great-aunt pursuant to the 1938 Census of Jewish-owned assets and records from her Census file, which indicate that Valerie Sara Berlitzer, who first resided at Reisnerstrasse 30, Vienna III and later at Währingerstrasse 33, Vienna, IX, died on 16 October 1941² and that she held two

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 501218. In a separate decision, this account was awarded to the Claimant. See *In re Account of [REDACTED]* (approved by the Court on 11 April 2005).

² The Census file contains two documents relating to Valerie Berlitzer’s death, one gives as date of death 16 October 1941, the other 1 October 1941.

accounts at the Bank; and the will of [REDACTED], which indicates that [REDACTED] is her daughter. The Claimant stated that she was born on 8 November 1927 in Vienna.

Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of this bank to identify the accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report any account held by Valerie Berlitzer during their investigation of the Bank. The existence of a custody account and a demand deposit account held by Valerie Berlitzer is documented in the records from the 1938 Census, which were submitted by the Claimant and which are described in detail below.

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 Valerie Berlitzer, numbered 10014. These records indicate that Valerie Berlitzer, née Fulda, a widowed housewife, was born on 19 May 1870, and resided at Reisnerstrasse 30, Vienna III at the time of filing her census form in July 1938, and at Währingerstrasse 33, Vienna IX at the time of her death in October 1941. The declaration further indicates that Valerie Berlitzer stated that she belonged to the protestant religious community. In her asset declaration, Valerie Berlitzer listed real estate and tangible valuables worth 15,793.34 Reichsmark ("RM"), and financial holdings totaling RM 110,597.04, including two accounts at the Bank: a demand deposit account, the balance of which was 12.85 Swiss Francs ("SF") as of 27 April 1938, and a custody account, numbered 35106, which, as of 27 April 1938 contained the following securities:

- 4 ½ % *Bank für Elektrische Unternehmungen Zürich fon 1931* with a nominal value of SF 1,000.00 and a market value of SF 1,060.00;
- 13 shares *Schweiz. Bodenkredit-Anstalt, Zürich*, with a market value of SF 285.00 per share for a total of SF 3,705.00;
- 20 shares *Aktiengesellschaft Brown, Boveri & Co. Baden Serie "A"* with a market value of SF 182.00 per share for a total of SF 3,640.00;
- 5 shares *Aktiengesellschaft Brown, Boveri & Co. Baden Serie "B"* with a market value of SF 32.00 per share for a total of SF 160.00;
- 4% *Franz. Rente von 1917* with a nominal value of 1,200.00 French Francs ("FFr") and a market value of FFr 21,450.00, which was equivalent to SF 2,896.00;
- 6% *Rentenbons Compania Hispano-Americana de Electricidad Madrid von 1920* with a nominal value of 2,700.00 United States dollars and a market value of SF 3,222.00;
- 5 ½ % *Felten & Guillaume Carlswerk A.G., Koeln-Muelheim von 1927* with a nominal value of SF 3,000.00 and a market value of SF 990.00;
- 13 shares *Compania Hispano Americana de Electricidad Madrid Ser. A, B, C* with a market value of SF 1,200.00 per share for a total of SF 15,600.00;

- 20 shares *Compania Hispano Americana de Electricidad Madrid Ser. D* with a market value of SF 234.00 per share for a total of SF 4,680.00; and
- 7 shares *Compania Hispano Americana de Electricidad Madrid Ser. E* with a market value of SF 235.00 per share for a total of SF 1,645.00.

The total market value of the securities in the custody account was SF 37,598.00. The Bank's letter indicates that it charged Valerie Berlitzer's account a fee of SF 5.00 for the effort involved in providing the listing and valuation of the securities in the account.³

Correspondence in Valerie Berlitzer's 1938 Census file includes flight tax (*Reichfluchtssteuer*) assessment notices, the last of which, dated May 1940, indicates that the value of her assets, after payment of atonement tax (25 percent of total assets) was RM 94,904.00 and that she was assessed flight tax in the amount of RM 23,800.00. Finally, the declaration makes reference to the 1938 Census records, numbered 10013, of Mrs. (Frau) [REDACTED], née [REDACTED]. The CRT notes that the records of Olga Belitzer contain an undated official note, stemming from the 1950s, which records that [REDACTED] (formerly Ornstein), as [REDACTED]'s heir, registered looted assets with the Austrian government. The CRT notes that the Claimant submitted [REDACTED]'s 1938 Census records in a separate Claim Form.⁴

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's great-aunt's name and city and country of residence match the unpublished name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's street address in Vienna, which matches unpublished information about the Account Owner contained in the Austrian Census records.

In support of her claim, the Claimant submitted documents, including an extract from the 1938 Census form submitted by the Account Owner, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city as the name and city of residence of the Account Owner 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 Valerie Berlitzer. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT notes that there are no other claims to these accounts.

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 committed

³ The German text reads: "*Für unsere speziellen Bemühungen, gestatten wir uns, Sie mit Fr. 5- zu belasten.*"

⁴ The Claimant submitted [REDACTED]'s 1938 Census Form in support of her claim for the account of [REDACTED].

suicide on the eve of her deportation in October 1941. As noted above, a person named Valerie Berlitzer was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's great-aunt. The CRT further notes that the Claimant submitted a copy of [REDACTED]'s 1938 Census file which includes a record showing that [REDACTED] (formerly Orenstein), as heir of [REDACTED], filed in the 1950s a looted asset registration with the Austrian government in her name; and [REDACTED]'s will, indicating that the Claimant is her daughter. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the accounts ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that the Account Owner lived in Austria until she committed suicide in October 1941, and therefore could not have repatriated the accounts without losing ultimate control over its proceeds; 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 account proceeds were not paid to the Account Owner, the 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 her great-aunt and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

With regard to the custody account, in her 1938 Census declaration, the Account Owner reported securities with a total market value of SF 37,598.00 and a demand deposit account with a value of SF 12.85. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount

in the account shall be determined to be SF 2,140.00. In this case, the 1938 Census records contain a letter from the Bank clearly indicating that the demand deposit account had a value of SF 12.85, which the CRT finds constitutes plausible evidence to the contrary that the amount in the account was SF 2,140.00. Thus, the total historic value of the accounts is SF 37,610.85. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount is SF 470,135.63.

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
21 September 2005