

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 2],
represented by Eyal Frost

in re Accounts of Moritz Bermann

Claim Number: 204909/HS

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of Moritz Bermann (the “Account Owner”) at the Zurich 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 Moritz (Moric, Morice) Bermann, the brother of her maternal aunt’s husband, who was born on 13 July 1880 in the Austro-Hungarian Empire, and was married to [REDACTED], née [REDACTED], who was born on 26 June 1885. In a telephone conversation with the CRT on 13 May 2004, the Claimant stated that Moritz and [REDACTED] Bermann had a son, but that she could not recall his name. The Claimant further stated that Moritz Bermann, who was a businessman, owned coal mines in Czechoslovakia. The Claimant indicated that Moritz Bermann was Jewish and that he lived at Melnicka 8 in Prague III, Czechoslovakia, from 1941 to 1942. The Claimant further indicated that Moritz Bermann's office was located on Wenzelsplatz, also in Prague. According to the Claimant, Moritz Bermann travelled to Switzerland in the course of his business, where he deposited money in his Swiss bank account. Also in her 13 May 2004 telephone conversation with the CRT, the Claimant stated that her brother, [REDACTED], worked temporarily for Moritz Bermann in Prague before her brother emigrated to Israel. The Claimant further indicated that Moritz Bermann and his wife were deported to the Theresienstadt concentration camp in January 1942 and that they were deported to Auschwitz in October 1944, where they were murdered by the Nazis. According to the information provided by the Claimant, aside from herself and her brother, none of Moritz Bermann's family survived the Holocaust.

The Claimant submitted Moritz and [REDACTED] Bermann's transport records from Theresienstadt, indicating that they both resided on Melnicka 8 in Prague III when they were deported on 30 January 1942 and that they were deported from Theresienstadt to Auschwitz on 9 October 1944. The Claimant also submitted a copy of a claim she filed in July 2000 regarding insurance policies owned by Moritz Bermann, and included a copy of his life insurance policy, dated 15 May 1923, identifying his residence as Prague and identifying his wife [REDACTED] Bermann, née [REDACTED], as beneficiary of the policy. Additionally, the Claimant submitted Austrian census records relating to [REDACTED], who the Claimant identified as Moritz Bermann's brother and as the husband of her mother's sister, [REDACTED], née [REDACTED]. The Claimant submitted her own mother's death certificate, identifying her mother as [REDACTED], née [REDACTED]. The Claimant also submitted a form she filled out for the Yad Vashem Memorial of Israel, dated April 1999, identifying [REDACTED] as her relative. In addition to various other documents, the Claimant submitted her own German Reich passport, dated in 1939, her visa to enter Palestine, dated in 1940, and her own marriage certificate, dated in 1946; all three of these documents indicate that the Claimant's maiden name is Herrmann. The Claimant indicated that she was born on 2 March 1927 in Vienna, Austria. The Claimant is also representing her brother, [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of a customer card, a power of attorney form, documents relating to the 1945 freeze of assets which nationals of Germany and of the territories incorporated into the Third Reich held in Switzerland (the "1945 Freeze"), lists of dormant and frozen accounts, and printouts from the Bank's database.

According to these records, the Account Owner was Moritz Bermann whose address was Václavské náměstí 30, Prague II, Czechoslovakia, and the Power of Attorney Holder was *Frau* (Mrs.) Berta Bermann, whose address was Melnicka 8, Prague III. These records also contain the signatures of the Account Owner and the Power of Attorney Holder and indicate that the Account Owner instructed the Bank to hold all correspondence.

The Bank's records indicate that the Account Owner held a custody account numbered 35702, which was closed on 8 January 1935. The amount in the custody account on the date of its closure is unknown.

The Bank's records also indicate that the Account Owner held a demand deposit account, which was blocked under the 1945 Freeze. The Bank's records indicate that on 17 February 1945 the demand deposit account had a balance of 616.00 Swiss Francs ("SF"). Additionally, the Bank's records indicate that when the account was unfrozen in June 1955 it had a balance of SF 531.50. The Bank's records also show that when the Bank conducted an internal survey of dormant accounts in 1959, the account balance was SF 487.50. According to the Bank's records, there had been no activity on the account since 1934.

The Bank's records for this account also include documents related to the survey of dormant accounts required by the Swiss Federal Decree of 20 December 1962 (the "1962 Survey"). The

1962 Survey required the registration of assets held in Switzerland by foreigners or stateless persons who had been or were presumed to have been victims of racial, religious and political persecution. The Bank did not report this account to the Swiss Government as part of the 1962 Survey. According to the Bank documents related to the 1962 Survey, the demand deposit account had a balance of SF 452.50 on 15 November 1963 and on 12 December 1963 it had an estimated balance of approximately SF 350.00. Finally, a printout from the Bank's database indicates that the demand deposit account was closed on an unknown date. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the demand deposit 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 relatives' names and city and of residence match the published names and city of residence of the Account Owner and the Power of Attorney Holder. Furthermore, the Claimant stated that her relative had an office on Wenzelsplatz. The CRT notes that Wenzelsplatz is the German name for Václavské náměstí (Wenceslas Square), which matches the unpublished correspondence address listed for the Account Owner in the Bank's records. Additionally, the Claimant submitted transport records from Theresienstadt indicating Moritz and [REDACTED] Bermann's address, which matches the unpublished address of the Power of Attorney Holder contained in the Bank's records.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Moric Bermann, and indicates that was born on 13 July 1880 and that he resided in Czechoslovakia, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants failed to identify unpublished information about the Account Owner and the Power of Attorney Holder and/or provided a different country of residence for Account Owner and the Power of Attorney Holder.

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, provided documents showing that the Account Owner and the Power of Attorney Holder were deported to Theresienstadt and Auschwitz, and indicated that both the Account Owner and the Power of Attorney Holder were murdered in Auschwitz. As noted above, a person named Moric Bermann 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 biographical information demonstrating that the Account Owner was the brother of the

Claimant's mother's sister's husband. The CRT notes that the Claimant identified the Account Owner's and Power of Attorney Holder's unpublished addresses. In support of her claim, the Claimant submitted documents including: her previous claim to the Account Owner's insurance policy, Theresienstadt transport records, and a life insurance policy which identify the Account Owner and the Power of Attorney Holder by name. Additionally, the Claimant submitted Austrian Census records and a Yad Vashem form identifying [REDACTED], who the Claimant stated is the husband of the Claimant's mother's sister and the brother of the Account Owner. Finally, there is no information to indicate that the Account Owner has surviving heirs other than the Claimant and the Claimant's brother, [REDACTED], whom the Claimant is representing.

The Issue of Who Received the Proceeds

With regard to the custody account, the Bank's records indicate that it was closed on 8 January 1935, nearly four years before the 15 March 1939 Nazi invasion of the Account Owner's residence of Prague. Therefore, the CRT concludes that the Account Owner had free access to the custody account on the date of its closure, and that the Account Owner himself closed the custody account and received the proceeds.

With regard to the demand deposit account, given that the account was frozen in 1945 and was closed on an unknown date after 12 December 1963; that the Account Owner and the Power of Attorney Holder were both murdered in Auschwitz; that the Account Owner's heirs would not have been able to obtain information about this account 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 and their heirs because of the banks' concern regarding double liability; 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 proceeds of the demand deposit account 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 her brother, [REDACTED]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that she and her brother are the children of the Account Owner's brother's wife's sister, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder or their heirs received the proceeds of the claimed accounts.

Amount of the Award

The Bank's records indicate that the value of the demand deposit account as of 17 February 1945 was SF 616.00. 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. The current value of the amount of the

award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 26,750.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if neither the Account Owner's spouse, children, spouses of those children, or any descendants of the Account Owner's parents or grandparents has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or marriage, who has submitted a claim, consistent with the principles of fairness and equity. In this case, the Claimant, indicated that she and her brother are the children of the Account Owner's brother's wife's sister and that she and her brother are the only surviving members of the Account Owner's family. The CRT notes that it has not received a claim from any other claimants identifying themselves as members of the Account Owner's family. Accordingly, the Claimant and [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 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
31 August 2004