

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], [REDACTED 3],
[REDACTED 4], [REDACTED 5], [REDACTED 6], [REDACTED 7] and [REDACTED 8]

in re Account of Charlotte Biach

Claim Number: 501574/KG

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Charlotte Biach (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 his paternal great-grandmother, Charlotte (also known as Karoline) Katharina Marie Biach, née Back, who was born on 9 March 1862 in Prossnitz, then Austria-Hungary (today Czech Republic), and was married to [REDACTED] on 2 October 1879 in Brno, then Austria-Hungary (today Czech Republic). The Claimant indicated that his great-grandmother had three children: [REDACTED], the Claimant’s paternal grandfather, [REDACTED], née [REDACTED], and [REDACTED], who died in 1916 without issue. The Claimant indicated that his great-grandmother, who was Jewish, resided in Vienna, Austria, where she was moved between various hospitals and nursing homes in 1941 and 1942 before being deported to Theresienstadt, where she perished. The Claimant added that [REDACTED] perished in the Lodz ghetto in 1942.

In support of his claim, the Claimant submitted various documents, including:

- Charlotte Biach's certificate of baptism, showing that she was born on 9 March 1862 in Prossnitz to [REDACTED] and [REDACTED];
- Charlotte Biach's registration card showing her date of birth, the names of her parents and her addresses in Vienna;

- [REDACTED]'s certificate of baptism dated 3 December 1885 showing that her mother was [REDACTED], the daughter of [REDACTED], a businessman in Prossnitz, and [REDACTED];
- [REDACTED]'s marriage certificate documenting that she married [REDACTED] on 15 September 1902;
- letter from the Jewish community council in the states of Bohemia and Moravia to [REDACTED] dated 5 March 1952, notifying her that [REDACTED] was deported on 26 October 1941 from Prague to Lodz, where she perished on 30 July 1942;
- the birth and baptism certificate of [REDACTED]'s son, [REDACTED], showing that he was born on 14 November 1904, and that his mother was [REDACTED];
- the birth certificates of the Claimant and his siblings, [REDACTED 6], [REDACTED 7] and [REDACTED], showing that their father was [REDACTED];
- certificate of inheritance dated 4 August 1952 relating to the estate of [REDACTED], under which his wife, [REDACTED], was awarded one-quarter of the estate and each of his four children, [REDACTED 2], [REDACTED 5], [REDACTED 4] and [REDACTED 3], received three-sixteenths of their father's estate;
- certified copy of [REDACTED]'s death certificate dated 7 January 1953 stating that her mother was Charlotte Biach, and that she perished on 30 July 1942 in Lodz.
- certificate of inheritance dated 20 October 1970 relating to the estate of [REDACTED]'s, pursuant to which her four children each received one quarter of her estate;
- the birth certificate of the Claimant's father, [REDACTED] (subsequently known by the surname of his birth father, [REDACTED]), stating that he was born on 18 October 1914 in Vienna to [REDACTED] and [REDACTED]; and
- [REDACTED]'s certificate of birth and baptism showing that his father was Dr. [REDACTED], whose parents were [REDACTED] and [REDACTED], née [REDACTED].

The Claimant stated that he was born on 28 October 1955 in Vienna. The Claimant represents the following parties:

- his sister, [REDACTED 8], who was born on 7 August 1951 in Vienna;
- his half-brother, [REDACTED 6], who was born on 4 April 1945 in Vienna;
- his half-brother, [REDACTED 7], who was born on 6 October 1946 in Vienna;
- his father's cousin's daughter, [REDACTED 2], who was born on 19 March 1934 in Prague, Czechoslovakia;
- his father's cousin's daughter, [REDACTED 5], who was born on 20 November 1936 in Prague;
- his father's cousin's son, [REDACTED 3], who was born on 29 March 1938 in Prague; and

- his father's cousin's daughter, [REDACTED 4], who was born on 18 August 1946 in Straubing, Germany.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's custody accounts database. According to this record, the Account Owner was Charlotte Biach, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner owned a custody account, numbered 17278, which was opened on 30 January 1933 and which was closed on 1 April 1938. The Bank's record does not indicate the value of this account.

There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/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 Charlotte Biach, numbered 15325. These records indicate that Charlotte Biach, née Back, a widow, was born on 9 March 1862, that she was a citizen of Czechoslovakia and that she resided at Paradiesgasse 28 in the 19th district of Vienna. According to these records, Charlotte Biach held various assets, including real estate and a large number of stocks and bonds. A supplement to the records contains two declarations signed by Charlotte Biach, in which she transferred the ownership of various assets to her relatives. By declaration on 20 February 1941, Charlotte Biach gave her securities, stocks and bonds or sales proceeds of these, as well as her jewellery, silver and other articles of value and various items of furniture to her grandson, [REDACTED]. These records further indicate that Charlotte Biach gave various real estate properties to [REDACTED 2], [REDACTED 5] and [REDACTED 3], all minors, by way of gift in a notarized deed dated 22 November 1940. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-grandmother's name and city and country of residence match the published name and city and country of residence of the Account Owner.

In support of his claim, the Claimant submitted documents, including:

- Charlotte Biach's certificate of baptism, showing that she was born on 9 March 1862 in Prossnitz to [REDACTED] and [REDACTED];
- Charlotte Biach's registration card showing her date of birth, the names of her parents and her addresses in Vienna; and

These documents provide 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.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Charlotte Biach, and indicates that her date of birth was 9 March 1862 and place of birth was Prossnitz, 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.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different married name than the married name of the Account Owner. Taking all 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 and that she was deported in 1942 to Theresienstadt, where she perished. Furthermore, as noted above, a person named Charlotte Biach was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he and the parties he is representing are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's and represented parties' great-grandmother. These documents include:

- [REDACTED]'s (also known as [REDACTED]) birth certificate, showing that he was born on 18 October 1914 in Vienna to [REDACTED] and [REDACTED];
- [REDACTED]'s certificate of birth and baptism showing that his father was Dr. [REDACTED] whose parents were [REDACTED] and [REDACTED], née [REDACTED].
- [REDACTED 6]'s birth certificate showing that he was born on 4 April 1945 in Vienna and that his father was [REDACTED];
- [REDACTED 7]'s birth certificate showing that he was born on 6 October 1946 in Vienna and that his father was [REDACTED];

- [REDACTED 8]'s birth certificate, showing that she was born on 7 August 1951 in Vienna and that her father was [REDACTED];
- [REDACTED]'s certificate of baptism dated 3 December 1885 showing that her mother was [REDACTED], née [REDACTED];
- the birth and baptism certificate of [REDACTED]'s son, [REDACTED], documenting that he was born on 14 November 1904, and that his mother was [REDACTED];
- certificate of inheritance dated 4 August 1952 relating to the estate of [REDACTED], pursuant to which his wife was awarded one-quarter of the estate and each of his children [REDACTED 2], [REDACTED 5], [REDACTED 4] and [REDACTED 3], received three sixteenths of their father's estate;
- certified copy of death certificate of [REDACTED] dated 7 January 1953 stating that she perished on 30 July 1942 in Lodz. The document indicates that her mother's name was Charlotte Biach; and
- the Claimant's birth certificate, showing that he was born on 28 October 1955 in Vienna and that his father was [REDACTED].

There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in Theresienstadt in 1942; that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 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 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 great-grandmother 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 account.

Amount of the Award

In this case, the Account Owner held one custody 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

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 favour of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant represents his sister, [REDACTED 8], his half-siblings, [REDACTED 6] and [REDACTED 7], as well as the children of his father’s cousin, [REDACTED]: [REDACTED 2], [REDACTED 5], [REDACTED 3] and [REDACTED 4]. The Claimant and the represented parties are all great-grandchildren of the Account Owner. Accordingly, the Claimant and each represented party are each entitled to one-eighth 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 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
31 March 2005