

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] and [REDACTED 4]

in re Accounts of Betty Bodenheimer-Strauss

Claim Number: 211673/PY

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Betty Bodenheimer-Strauss (the “Account Owner”), over which Ernest Weil (the “Power of Attorney Holder”) held power of attorney, at the Basel 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 her great-aunt, Betty Bodenheimer, née Strauss. The Claimant stated that her great-aunt was born in Ulm, Germany, to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant further stated that Betty Strauss, who was Jewish, married a man named Bodenheimer from Basel, Switzerland, and that after their marriage they resided in Basel, where Betty Bodenheimer died in the early 1940s.

In a telephone conversation with the CRT on 3 December 2002, the Claimant identified the Power of Attorney Holder as her mother’s cousin, Ernest Weil. The Claimant stated that Ernst Weil was Betty Bodenheimer’s nephew, the son of her sister [REDACTED], née [REDACTED]. According to the Claimant, Ernest Weil was a lawyer residing in Karlsruhe, Germany. The Claimant indicated that Ernest Weil emigrated to the United States.

The Claimant indicated that Betty Bodenheimer also had a brother, [REDACTED], who was the Claimant’s maternal grandfather. The Claimant stated that [REDACTED], who was a pediatrician in Mannheim, Germany, visited his sister in Switzerland and left money with her to open an account for safekeeping in a Swiss bank. The Claimant indicated that [REDACTED], who was Jewish, was deported with his wife to the Gurs concentration camp in France and later

to Auschwitz, where he perished.

In support of her claim, the Claimant submitted her brothers' and her birth certificates, indicating that their mother is [REDACTED], and her mother's death certificate, indicating that she was the daughter of [REDACTED] and [REDACTED].

The Claimant indicated that she was born on 20 April 1941 in Los Angeles, California, the United States. The Claimant is representing her twin brothers, [REDACTED 3] and [REDACTED 4], who were born on 8 June 1942, also in Los Angeles, and her aunt, [REDACTED 2], née [REDACTED], who was born on 16 March 1907 in Mannheim, Germany.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database of closed accounts. According to this record, the Account Owner was Betty Bodenheimer-Strauss who resided in Konstanz, Germany, and the Power of Attorney Holder was Dr. Ernst Weil who resided in Basel, Switzerland. The Bank's record indicates that the Account Owner held a custody account and a demand deposit account, both of which were numbered 51078 and both of which were opened on 25 October 1934.

The Bank's record does not show when the accounts at issue were closed, or to whom they were paid, nor does this record indicate the value of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's record that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her great-aunt's name matches the published name of the Account Owner and her cousin's name matches the published name of the Power of Attorney Holder. The Claimant identified her cousin's profession, which is consistent with the unpublished title held by the Power of Attorney Holder. While the Claimant has not identified Konstanz as the Account Owner's residence, she has established a strong connection to Basel, where the accounts were opened and which was the address used by the Power of Attorney Holder. 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 her brother, who provided her with the money to be deposited in the accounts, was murdered with his wife by the Nazis in Auschwitz.

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 notes that the Claimant submitted her mother's birth certificate, indicating that her mother's parents were [REDACTED] and [REDACTED], providing independent verification that the Claimant's relatives bore the family name Strauss, which was the Account Owner's maiden name, which supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The CRT notes that the Claimant stated that the Account Owner resided in Basel following her marriage. However, the Bank's record, which must have been created after the Account Owner's marriage, given the Bank's use of her married name, indicates that the Account Owner resided in Konstanz, Germany, on or after the 25 October 1934 opening date for the accounts. Given that the Bank's record indicates only a German address for the Account Owner; that there is no record of payment of the Account Owner's accounts to her or to the Power of Attorney Holder; that the Bank's record does not indicate a closure date for either of the Account Owner's accounts, but that their closure date, if any, would have been after 25 October 1934, by which time the Nazis had already embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner and her heirs would not have been able to obtain information about her accounts 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, 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 [REDACTED 2], the Claimant, [REDACTED 4], and [REDACTED 3]. 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 [REDACTED 2]'s aunt, and that the Account Owner was the great-aunt of the Claimant, [REDACTED 4], and [REDACTED 3], and those relationship justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs (SF), and the average value of a demand deposit account was 2,140.00 Swiss Francs. Thus, the 1945 total average value of the accounts at issue is SF 15,140.00. 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 189,250.00.

Division of the Award

According to Article 23(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, [REDACTED 2] is entitled to one-half of the total award amount, and the Claimant, [REDACTED 4], and [REDACTED 3] are each entitled to one-sixth 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