

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

to the Estate of Claimant [REDACTED 2]¹

and to Claimant [REDACTED 3]

in re Account of Andor Böhm and *Frau Mor Böhm*

Claim Numbers: 733606/WT;² 212716/WT;³ 207447/WT; 728666/WT⁴

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Mor Böhm and Janos Kovacs,⁵ and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Palné Biro, née Ibolya Böhm.⁶ This Award is to the published account of Andor Böhm (“Account Owner Andor Böhm”) and *Frau* (Mrs.) Mor Böhm (“Account Owner Mrs. Mor Böhm”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).⁷

¹ The CRT notes that [REDACTED 2] (“Claimant [REDACTED 2]”) passed away in 2005.

² In 1999 [REDACTED 1] (“Claimant [REDACTED 1]”) submitted an Initial Questionnaire (“IQ”), numbered HUN-0155-107, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 733606.

³ Claimant [REDACTED 1] submitted one additional Claim Form, which was registered under the Claim Number 212716. The CRT has determined that his two claims are duplicate claims and is treating them under the consolidated Claim Number 212716.

⁴ [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered HUN-0016-086, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 728666.

⁵ The CRT will treat Claimant [REDACTED 1]’s claim to the account of Janos Kovacs in a separate determination.

⁶ The CRT will treat Claimant [REDACTED 3]’s claim to the account of Palné Biro in a separate determination.

⁷ The CRT notes that on the List of Account Owners Published in 2005 (the “2005 List”), the name A. Bohm also appears. Upon careful review, the CRT has determined that A. Bohm is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

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 Claimants

Claimants [REDACTED 1] and Claimant [REDACTED 2]

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are brothers, submitted an Initial Questionnaire and two Claim Forms identifying Account Owner Mrs. Mor Böhm as their mother, Roza Böhm, née Weisz, who was born in 1882 in Derecske, Hungary, and was married to [REDACTED] in 1908 in Budapest, Hungary. Claimant [REDACTED 1] and Claimant [REDACTED 2] indicated that their mother, who was Jewish, lived with her husband and their four children in Pesterzsebet, Budapest. Claimant [REDACTED 1] and Claimant [REDACTED 2] indicated that during the Second World War their family was deported to Auschwitz, where both their parents and their two siblings perished in 1944. Claimant [REDACTED 2] submitted copies of an identification card, dated 15 May 1945, indicating that [REDACTED 2] was imprisoned in Buchenwald from 25 December 1944 until 11 April 1945, and a Displaced Person card, indicating that the Allied Expeditionary Force issued [REDACTED 2] a Displaced Person index card, numbered 22845. Claimant [REDACTED 1] indicated that he was born on 7 April 1921. Claimant [REDACTED 2] indicated that he was born on 5 June 1923.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an Initial Questionnaire identifying Account Owner Mrs. Mor Böhm as his maternal grandmother, Karolina Böhm, née Dann, who was married to [REDACTED] and who lived in Budapest, Hungary. Claimant [REDACTED 3] indicated that his grandmother, who was Jewish, had a daughter, [REDACTED], who was Claimant [REDACTED 3]'s aunt. Claimant [REDACTED 3] indicated that during the Second World War [REDACTED] and her husband [REDACTED] were taken from their homes and never seen again. Claimant [REDACTED 3] submitted copies of: (1) an order from the district court of Budapest, indicating that [REDACTED], who was the daughter of [REDACTED] and Karolina Böhm, née Dann, and her husband disappeared during the Second World War and were declared dead on 2 October 1948; and (2) an inheritance agreement, dated 31 March 1948, indicating that Morné Böhm and other relatives of [REDACTED] and [REDACTED], née [REDACTED], agreed to divide their property and that the agreement would be annulled should the couple reappear.⁸ Claimant [REDACTED 3] indicated that he was born on 24 September 1937.

⁸ The CRT notes that Morné Böhm is the Hungarian equivalent of Mrs. Mor Böhm.

Information Available in the Bank's Records

The Bank's records consist of a report from 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"). According to the auditors' report, the Account Owners were Mrs. (*Frau*) Mor Böhm and Andor Böhm, who resided in Budapest, Hungary. The auditors' report indicates that the Account Owners held an account, the type of which is not indicated.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with an additional document. This document consists of a contract for the opening of a joint account dated 21 October 1930 and indicates that the Account Owners were Mrs. (*Frau*) Mor Böhm and Andor Böhm, who lived at Paulay Ede U. 25/27, Budapest.

The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account. The auditors who carried out the ICEP Investigation did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules, claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the four claims of the Claimants in one proceeding.

Identification of the Account Owners

Claimant [REDACTED 1] and Claimant [REDACTED 2]

Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s mother's name and city and country of residence match the published name and city and country of residence of Account Owner Mrs. Mor Böhm.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Rosa Böhm, née Weisz, who was born in 1882 and who lived in Budapest, Hungary, which matches the information about Account Owner Mrs. Mor Böhm

provided by Claimant [REDACTED 1] and Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the names Mrs. Mor Böhm and Andor Böhm appear only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the “ICEP List”).

The CRT notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Mor Böhm, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 1] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

Claimant [REDACTED 3]

Claimant [REDACTED 3]’s grandmother’s name and city and country of residence match the published name and city and country of residence of Account Owner Mrs. Mor Böhm. The CRT notes that the names Mrs. Mor Böhm and Andor Böhm appear only once on the February 2001 ICEP List.

The CRT notes that Claimant [REDACTED 3] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Ibolya Böhm, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 3] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 3] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 3].

The CRT notes that the Claimants did not identify Account Owner Andor Böhm. However, the CRT notes that the Claimants would not necessarily know the names of all of their relative’s extended family members, and that the Claimants’ failure to identify Account Owner Andor Böhm does not adversely affect the plausibility of their identification of Account Owner Mrs. Mor Böhm.

The CRT notes that Claimant [REDACTED 1]’s and Claimant [REDACTED 2]’s relative and Claimant [REDACTED 3]’s relative are not the same person. However, given that the information provided by each claimant supports and in no way contradicts any information available in the Bank’s records; that there is no additional information in the Bank’s records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owners; and that there are no other claims to this account, the CRT finds that

Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have each plausibly identified Account Owner Mrs. Mor Böhm.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Mrs. Mor Böhm was a Victim of Nazi Persecution. Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that Account Owner Mrs. Mor Böhm was Jewish, and that she perished in Auschwitz in 1944 along with her husband and two of her children. Claimant [REDACTED 3] indicated that Account Owner Mrs. Mor Böhm's daughter and son-in-law disappeared during the Second World War and were declared dead in 1948. Claimant [REDACTED 3] also submitted the Budapest district court's order declaring her daughter and son-in-law dead, and an agreement between family members to distribute their property.

As noted above, a person named Rosa Böhm was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

Claimant [REDACTED 1] and Claimant [REDACTED 2]

Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that they are related to Account Owner Mrs. Mor Böhm by submitting specific biographical information, demonstrating that Account Owner Mrs. Mor Böhm was Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s mother. There is no information to indicate that Account Owner Mrs. Mor Böhm has other surviving heirs.

The CRT further notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between Account Owner Mrs. Mor Böhm and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 1] and Claimant [REDACTED 2] also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Mrs. Mor Böhm was well known to Claimant [REDACTED 1] and Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] and Claimant [REDACTED 2] are related to Account Owner Mrs. Mor Böhm, as they have asserted in their Claim Forms.

Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly demonstrated that he is related to Account Owner Mrs. Mor Böhm by submitting specific biographical information, demonstrating that Account Owner Mrs. Mor Böhm was Claimant [REDACTED 3]'s grandmother. There is no information to indicate that Account Owner Mrs. Mor Böhm has other surviving heirs.

The CRT further notes that Claimant [REDACTED 3] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between Account Owner Mrs. Mor Böhm and

Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List. The CRT further notes that Claimant [REDACTED 3] submitted copies of the court order declaring Mrs. Mor Böhm's daughter and son-in-law dead, and the agreement dividing their property. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Mrs. Mor Böhm was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to Account Owner Mrs. Mor Böhm, as he has asserted in his Claim Form.

The CRT notes that the Claimants did not indicate whether they are related to Account Owner Andor Böhm. However, given that the Bank's records indicate that the Account Owners shared the same surname, the CRT concludes that it is plausible that the Account Owners were related, and that by plausibly demonstrating that they are related to Account Owner Mrs. Mor Böhm, the Claimants have also plausibly demonstrated that they are related to Account Owner Andor Böhm.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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 Owners 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have plausibly demonstrated that Account Owner Mrs. Mor Böhm was their mother, and Claimant [REDACTED 3] has plausibly demonstrated that Account Owner Mrs. Mor Böhm was his grandmother, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held one account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as one of the Account Owners. Accordingly, Claimant [REDACTED 3] is entitled to one-half of the Award amount. With respect to Claimant [REDACTED 1] and Claimant [REDACTED 2], Article 23(1)(a) of the Rules provides that 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 by representation. Accordingly, Claimant [REDACTED 1] is entitled to one-fourth of the Award amount, and Claimant [REDACTED 2] is entitled to one-fourth of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
19 December 2007