

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Dr. Walter Friedrich

in re Account of Walter Brünner

Claim Number: 501506/SB

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Walter Brünner (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 maternal uncle, Dr. Walter Brünner, who was born on 2 March 1899 in Vienna, Austria and was married to [REDACTED] in 1932 in Vienna. The Claimant stated that his uncle, who was Jewish, was a chemist and the Austrian consul to Spain, who resided in Vienna and in Madrid and Barcelona, Spain, from 1936 to 1938 before returning to Vienna in 1938. The Claimant further stated that his uncle fled Austria for Santiago, Chile, in June 1938, where he died on 2 April 1985.

In support of his claim, the Claimant submitted: (1) correspondence between the Claimant’s uncle and the Austrian authorities in March and April 1938, regarding his request to emigrate to South America, which indicates the Claimant’s uncle held the title of Doctor, resided in Vienna and had served as the Austrian consul in Madrid from July 1936 to February 1938; (2) his uncle’s diplomatic passport, issued in Vienna on 17 November 1937, which also shows his title of Doctor, his date and place of birth and that he resided in Madrid; and (3) the Claimant’s birth certificate, which states that his mother’s maiden name was [REDACTED]. The Claimant stated that he was born on 1 July 1921 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Walter Brünner, who resided in Vienna, Austria and Madrid, Spain. The Bank's record indicates that the Account Owner held a demand deposit account denominated in Pounds Sterling, which was closed on 20 September 1938. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the 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 uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant also identified the Account Owner's title and other city and country of residence in Madrid, Spain, which matches unpublished information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted documents including his uncle's diplomatic passport, which shows his title of Doctor and that he resided in Madrid, Spain, providing independent verification that the person who is claimed to be the Account Owner had the same name, title and resided in the same cities recorded in the Bank's record as the name, title and cities of residence of the Account Owner.

The CRT notes that the name Walter Brünner appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). The CRT further notes that there are no other claims to this account.

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 fled Austria in June 1938 for Chile.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's uncle.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that the Claimant submitted a copy of his uncle's diplomatic passport, and that it is plausible that this document is a document which most likely only a family member would possess. The Claimant also submitted a copy of his birth certificate, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner. 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 this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the account was closed on 20 September 1938, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his account to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 his 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 uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit 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 ICEP, in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

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