

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹
represented by Stephen Harnik

in re Account of Bertha Oberländer

Claim Numbers: 501289/MBC; 501295/MBC; 501298/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Bertha Oberländer, Ella Schlesinger, and Bernhard Doregger.² This award is to the published account of Bertha Oberländer (the “Account Owner”), over which Ella Schlesinger (the “Power of Attorney Holder”) held power of attorney, 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 Claim Forms identifying the Account Owner as her great-grandmother, Bertha (Berta) Oberlaender (Oberländer), who was born on 27 May 1869 in Stanislav, Poland, and was married to [REDACTED]. According to the Claimant, Bertha and [REDACTED], who were Jewish, had one daughter, Gabriele (Ella) Schlesinger, née Oberlaender, the Claimant’s maternal grandmother. The Claimant indicated that before the Second World War, her great-grandmother resided at Rennweg 79-81 in Vienna, Austria, and her daughter, Gabriele Schlesinger, resided at Gerlingasse and Jacquingasse in Vienna. The Claimant indicated that her great-grandmother was married a second time to an individual with the family name [REDACTED]. The Claimant stated that her great-grandmother and grandmother were deported to Auschwitz, where they perished on 21 December 1943.

In support of her claim, the Claimant submitted: (1) a copy of her grandmother’s birth certificate, indicating that Gabriele Oberländer was the daughter of [REDACTED] and Berta Oberländer;

¹ The CRT notes that [REDACTED] died on 24 September 2003.

² The CRT will treat the claims to the accounts of Ella Schlesinger and Bernhard Doregger in separate determinations.

(2) a copy of her own birth certificate, indicating that she was born in Vienna and that her mother was [REDACTED]; and (3) a copy of an inheritance document, dated 21 June 1949, indicating that Berta Oberländer owned a house located on Gerlgasse in Vienna and that her heir was her granddaughter, [REDACTED], formerly [REDACTED] née [REDACTED]. The Claimant indicated that she was born on 25 April 1933 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was *Frau* (Mrs.) *Wwe.* (widow) Bertha Oberländer, and the Power of Attorney Holder was *Frau* Ella Schlesinger. The Bank's records further indicate that the Account Owner resided at Rennweg 79/81 in Vienna III, Austria, and that the Power of Attorney Holder resided at Jacquingasse 6 in Vienna. According to these records, the Account Owner owned one account, the type of which is not indicated. These records, which contain signature samples for the Account Owner and the Power of Attorney Holder, indicate that power of attorney was granted on 3 August 1931.

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 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 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 Owner, the Power of Attorney Holder, or their 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, 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 Berta Oberländer, numbered 50600 (initially numbered 38762). These records consist of Berta Oberländer's 1938 Census declaration and official correspondence. They indicate that Berta Oberländer, who was widowed, was born on 27 May 1869 in Stanislau, Poland, resided at Rennweg 64 in Vienna, and had Czech nationality. According to Berta Oberländer's asset declaration, Berta Oberländer was an industrialist who owned an apartment house located at Gerlgasse 7 in Vienna, a 1/6 share of the company *Firma B. Oberländer*, located at Rennweg 79/81, and 4,192 shares of stock in the company *Altesse A.G.*, located at Rennweg 79/81. Correspondence in the file addressed by Nazi authorities to Herr Hans von Behr indicates that Berta Oberländer had ceded her shares in *Altesse A.G.* and *Firma B. Oberländer* to von Behr and that he had taken over the firm's liabilities as well. According to this correspondence, Bertha Oberländer had left Austria for Czechoslovakia by the end of September 1938. An official notation of closure, dated 5 January 1939, noted that, as advised by the moving company E.

Bäuml, the subject had moved to Poland. These records make no mention of assets held in a Swiss bank account.

In the records of the Austrian State Archive (Archive of the Republic, Finance), there are also documents concerning the assets of Gabriele Schlesinger, numbered 42048. These records consist of Gabriele Schlesinger's 1938 Census declaration, various amendments to that declaration, and official correspondence. According to her asset declaration, Gabriele (Ella) Schlesinger, née Oberländer, was born on 28 July 1889 in Lemberg, Poland, was the widow of an industrialist, and resided at Jacquingasse 6 in Vienna. This asset declaration further indicates that Gabriele Schlesinger owned one-half of a house at Rennweg 79/81 in Vienna, a 1/6 share of the company *Firma B. Oberländer*, located at Rennweg 79/81, and 4,192 shares of stock in the company *Altasse A.G.* According to amendments to her asset declaration dated between 12 December 1938 and 9 January 1939, Gabriele Schlesinger ceded her assets in Vienna to a Herrn von Behr in exchange for 60 percent of the shares of a firm he owned in Krakow. Correspondence signed by her daughter [REDACTED], also contained in the file, indicates that [REDACTED] also may have effected a similar exchange of assets with von Behr. According to Gabriele Schlesinger's amendment to her asset declaration, she paid flight tax (*Reichsfluchtsteuer*) in the amount of 1,694.00 Reichmark ("RM"). These records also contain correspondence, dated 9 January 1939, indicating that Gabriele Schlesinger was the daughter of Berta Oberländer, and that she and her daughter, [REDACTED], were residing at that time at the *Hotel Francuski* in Krakow. Finally, the file contains an official notation of closure similar to that found in Berta Oberländer's file that indicates that the subject had moved to Poland. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's great-grandmother's name and country and city of residence match the published name and country and city of residence of the Account Owner. The Claimant's grandmother's name matches the published name of the Power of Attorney Holder. The Claimant identified both her great-grandmother and her grandmother's street addresses, which matches unpublished information contained in the Bank's records. The Claimant identified the marital status of both her great-grandmother and grandmother which further matches unpublished information contained in the Bank's records. The Claimant identified her great-grandmother and grandmother's birth dates, which matches information contained in the 1938 Census records. In support of her claim, the Claimant submitted her grandmother's birth certificate, indicating that Gabriele Schlesinger was the daughter of Berta Oberländer, and an inheritance document, dated 21 June 1949, indicating that Berta Oberländer owned a house located on Gerlgasse in Vienna, providing independent verification that the persons who are claimed to be the Account Owner and Power of Attorney Holder had the same names and resided in the same city recorded in the Bank's records as the

names and city of residence of the Account Owner and the Power of Attorney Holder.³

The CRT notes that the other claim to this account was disconfirmed because that claimant failed to identify the Power of Attorney Holder or any unpublished information.

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 and the Power of Attorney Holder were Jewish, and that they both perished 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-grandmother. These documents include her grandmother's birth certificate, indicating that Gabriele Schlesinger was the daughter of Berta Oberländer, a copy of an inheritance document, indicating that Berta Oberländer's heir was her grand-daughter, [REDACTED], formerly [REDACTED], née [REDACTED], and the Claimant's birth certificate, indicating that her mother was [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner and Power of Attorney Holder perished in Auschwitz; that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner's 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, 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. 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 her great-grandmother, and

³ The CRT notes that, in the documents submitted by the Claimant, her relative's first name is spelled "Berta," and in the Bank's records it is spelled "Bertha." The CRT notes that the Claimant stated that "Berta" was an alternate spelling of her relative's name, and concludes that the spelling difference is immaterial to the Claimant's identification of the Account Owner.

that relationship justifies 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 account.

Amount of the Award

In this case, the Account Owner 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.

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 claims 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
12 May 2006