

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]

and to Claimant [REDACTED 5]

in re Accounts of Amalie Regensburger

Claim Numbers: 004392/SI; 004394/SI; 004435/SI; 220694/SI; 220727/SI; 220872/SI;
220873/SI; 220875/SI; 220882/SI; 221099/SI

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) to the accounts of Amalie Regensburger and Alfred Regensburger, and the claims of [REDACTED 5], née [REDACTED], to the accounts of Amalie Regensburger, Arthur Bauer, Ernestine Bauer, Joseph Bauer, and Simon Bauer (“Claimant [REDACTED 5]”) (together the “Claimants”).¹ This award is to the published accounts of Amalie Regensburger (the “Account Owner”), over which Arthur Bauer (“Power of Attorney Holder Arthur Bauer”), Ernestine Bauer (“Power of Attorney Holder Ernestine Bauer”), Josef Bauer (“Power of Attorney Holder Josef Bauer”), and Ludwig Altmann (“Power of Attorney Holder Altmann”) (together the “Power of Attorney Holders”) held power of attorney, at the Basel branch of the [REDACTED] (the “Bank”).²

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ The CRT will treat the claims to the accounts of Alfred Regensburger, Arthur Bauer, Ernestine Bauer, Joseph Bauer, and Simon Bauer in separate determinations.

² The CRT notes that, on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP list”), Amalie Regensburger is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records indicate that Amalie Regensburger owned four accounts.

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 5], who are cousins, submitted Claim Forms identifying the Account Owner as Claimant [REDACTED 1]'s mother and Claimant [REDACTED 5]'s paternal aunt, Amalie Regensburger, née Bauer, who was born on 27 January 1913 in Erlangen, Germany, and was married to Dr. [REDACTED] on 5 December 1934 in Shanghai, China. The Claimants indicated that their relative was the daughter of [REDACTED] and [REDACTED], née [REDACTED], and the sister of [REDACTED] (Claimant [REDACTED 5]'s father). The Claimants explained that their relative, who was Jewish, lived with her family at Nürnbergerstrasse 32-34 in Erlangen until 1933, when her parents sent her to live in Paris, France, to escape anti-Semitism in Germany. Claimant [REDACTED 1] indicated that in late 1933 or 1934, her mother was engaged to [REDACTED] (Claimant [REDACTED 1]'s father) in Switzerland, and after marrying in Shanghai, they moved to Yokohama, Japan, where they resided until the end of 1939. Claimant [REDACTED 1] explained that her parents were forced to leave Japan because of the War, and that in 1940 they emigrated to Palestine (today Israel). According to Claimant [REDACTED 1], her mother had relatives with the surname [REDACTED] who resided near Lucerne, Switzerland, and with whom her mother was in regular contact. Claimant [REDACTED 1] further stated that her mother died on 29 April 1980 in Bnei-Brak, Israel. Claimant [REDACTED 5] indicated that her grandparents (Amalie Regensburger's parents), [REDACTED] and [REDACTED], died in approximately 1941 in Riga, Latvia, and that her father, [REDACTED] (Amalie Regensburger's brother), died in April 1982 in New Jersey, the United States.

In support of her claims, Claimant [REDACTED 1] submitted copies of the following documents: (1) her mother's passport, containing Amalie Regensburger's signature; (2) her mother's death certificate, indicating that Amalie Regensburger died on 29 April 1980 in Israel; (3) her parents' marriage certificate, issued by the German Consulate General in Shanghai, indicating that [REDACTED] and Amalie Bauer were married on 5 December 1934 in Shanghai; and (4) an inheritance order from an Israeli court, indicating that Amalie Regensburger's children were [REDACTED 2], [REDACTED 3], [REDACTED 4], and Claimant [REDACTED 1], and that each received a one-fourth share of their mother's estate.

In support of her claims, Claimant [REDACTED 5] submitted copies of the following documents: (1) postcards from her maternal grandfather to a relative, [REDACTED], who resided in Hergiswil, Switzerland, containing her grandfather's signature and indicating that [REDACTED] resided at Thierschstrasse 7/I in Munich, Germany; (2) the identity card of her father, [REDACTED], containing his signature; (3) letters from her paternal grandmother, [REDACTED], containing [REDACTED]'s signature; (4) a general power of attorney signed in 1955 by her aunt, Amalie Regensburger in favor of [REDACTED] (Claimant [REDACTED 5]'s father); and (4) a statement made by Amalie Regensburger in November 1961.

Claimant [REDACTED 1] indicated that she was born on 3 March 1943 in Bnei-Brak. Claimant [REDACTED 1] is representing her siblings: [REDACTED 2], who was born on 25 April 1937 in Yokohama; [REDACTED 3], née [REDACTED], who was born on 29 February 1940 in Palestine (now Israel); and [REDACTED 4], née [REDACTED], who was born on 6 May 1950

in Israel. Claimant [REDACTED 5] indicated that she was born on 23 February 1950 in Philadelphia, Pennsylvania, the United States.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by her maternal grandfather, Joseph Bauer.

Information Available in the Bank's Records

The Bank's records consist of four power of attorney forms, which were signed in Yokohama, Japan, and dated between 15 December 1934 and 17 December 1936, a mail instruction form, signed on 14 January 1935 in Yokohama, an internal bank memorandum, and correspondence. According to these records, the Account Owner was *Frau* (Mrs.) Amalie Regensburger, née Bauer, who resided at Koto-Kogyo-Gekko in Yokohama, and the Power of Attorney Holders were *Herr* (Mr.) Josef Bauer, the Account Owner's father, who resided in Munich, Germany; *Frau* Ernestine Bauer, who resided at Liebherrstrasse 8 in Munich; *Herr* Ludwig Altmann, who resided in Hergiswil, Switzerland; and Arthur Bauer. These records also contain signature samples for the Account Owner and Power of Attorney Holders.

The Bank's records indicate that the Account Owner held one custody account, numbered 39992, one demand deposit account, and one savings/passbook account, numbered 80297. The Bank's records indicate that the powers of Power of Attorney Holder Ludwig Altman were limited to the savings/passbook account, and that the powers of Power of Attorney Holders Arthur Bauer were limited to the demand deposit account. According to the Bank's records, the Account Owner closed the savings/passbook account and transferred its balance into an additional demand deposit account, which she opened on 24 October 1935. The Bank's records indicate that another power of attorney was granted to Power of Attorney Ernestine Bauer on 8 June 1937.

The Bank's records do not show when the custody account and the demand deposit accounts were closed, nor do these records 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 (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 records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). On 7 April 2004 and 15 April 2004, the Bank informed the CRT that no additional documents were available.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (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 ten claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their relatives' names match the published names of the Account Owner and the Power of Attorney Holders. The Claimants identified Amalie Regensburger's city of residence and maiden name, which matches published information about the Account Owner contained in the Bank's records. The Claimants also identified the family relationship between the Account Owner and Power of Attorney Holder Josef Bauer, the city of residence of Power of Attorney Holder Ernestine Bauer, and the name and address of Power of Attorney Holder Altmann, all of which matches unpublished information contained in the Bank's records. Furthermore, Claimant [REDACTED 1] submitted a sample of her mother's signature, and Claimant [REDACTED 5] submitted samples of the signatures of her aunt, her father, and her grandmother, which match the signatures of the Account Owner and the Power of Attorney Holders.

In support of her claim, Claimant [REDACTED 1] submitted documents, including Amalie Regensburger's passport, death certificate, marriage certificate, and an inheritance order from an Israeli court. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that she resided in Germany until 1933, when she was sent to France to avoid persecution in Germany.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s mother and Claimant [REDACTED 5]'s aunt. These documents include an inheritance order, indicating that Claimant [REDACTED 1] was Amalie Regensburger's daughter.

The CRT notes that Claimant [REDACTED 5] identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that Claimant [REDACTED 5] submitted a general power of attorney signed by Amalie Regensburger in 1955, as well as a statement written by Amalie Regensburger in 1961, which are documents 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 the Account Owner was well known to Claimant [REDACTED 5] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 5] is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

In this case, the Account Owner held a custody account, a demand deposit account, and a savings/passbook account. The Bank's records indicate that the savings/passbook account was closed, and that its balance was transferred to an additional demand deposit account.

With respect to the custody account and two demand deposit accounts, the CRT notes that the Bank's records do not indicate when these accounts were closed, and that the Account Owner was residing outside Nazi-controlled territory by 1933. However, given that the Bank's records do not indicate to whom the accounts were closed, that the Account Owner fled her country of origin due to Nazi persecution and that the Account Owner's parents [REDACTED] and [REDACTED] remained in Munich until 1941, and that the Account Owner may therefore have yielded to Nazi pressure to turn over her accounts to ensure the safety of her parents, and her heirs would not have been able to obtain information about her accounts 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 (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 Holders, 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 [REDACTED 1], and her siblings, [REDACTED 2], [REDACTED 3] and [REDACTED 4], whom she is representing. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her mother. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts. Further, the CRT notes that Claimant [REDACTED 1] and her siblings, as the Account Owner's children, have a better entitlement to the accounts than Claimant [REDACTED 5], the Account Owner's niece.

Amount of the Award

This Award is for one custody account and two demand deposit accounts. 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 SF 2,140.00, for a combined average value of SF 17,280.00 for the three accounts at issue. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 216,000.00.

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 favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is representing her siblings, [REDACTED 2], [REDACTED 3] and [REDACTED 4]. Accordingly, Claimant [REDACTED 1], [REDACTED 2], [REDACTED 3] and [REDACTED 4] are entitled to one-fourth of the total award amount. As noted above, the Claimant [REDACTED 1] and her siblings, as the Account Owner’s children, are more entitled to the accounts than Claimant [REDACTED 5], the Account Owner’s niece.

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
7 June 2006