

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Maria Brunner

Claim Number: 224269/UM

This Certified Denial is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Hans Brunner.¹ This Denial is to the published accounts of Maria Brunner (the “Account Owner”) at the Bern and Lucerne branches of the [REDACTED] (“Bank I”) and the [REDACTED] (“Bank II”) (together the “Banks”).

All denials 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 banks have been redacted.

On 25 October 2002, the Court approved an Award to [REDACTED] (“Claimant [REDACTED]”) (together with Claimant [REDACTED 1], the “Claimants”) for four accounts held by the Account Owner at the Banks (the “October 2002 Award”). The October 2002 Award neither addressed the entitlement of Claimant [REDACTED 1], nor that of his brother, whom Claimant [REDACTED 1] is representing, to these accounts. This Certified Denial concludes that Claimant [REDACTED 1] and his brother are not entitled to any portion of the total award amount awarded to Claimant [REDACTED] in the October 2002 Award.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his relative, Maria (Mitzi) Brunner, née Urban, who was born in 1891 and was married to [REDACTED]. Claimant [REDACTED 1] indicated that [REDACTED] was the grandson of [REDACTED], who was the brother of [REDACTED], Claimant [REDACTED 1]’s great-great-grandfather. Claimant [REDACTED 1] further indicated that Maria (Mitzi) Brunner died in 1962.

¹ The CRT will treat Claimant [REDACTED 1]’s claim to the account of Hans Brunner in a separate decision.

Claimant [REDACTED 1] indicated that he was born on 5 July 1960 in Zurich, Switzerland. Claimant [REDACTED 1] is representing [REDACTED 2], his brother, who was born in 1953, also in Zurich.

Claimant [REDACTED]

As noted in the October 2002 Award, Claimant [REDACTED] submitted a Claim Form identifying the Account Owner as his mother, Maria (Mitzi) Brunner, née Urban, who was born on 9 August 1891 in Wiener-Neudorf, Austria, and was married to [REDACTED] in 1923 in Vienna, Austria. Claimant [REDACTED] indicated that his parents resided in both Vienna and in Mödling, Austria. Moreover, Claimant [REDACTED] indicated that his parents had two children: [REDACTED], née [REDACTED], who was born on 8 October 1919 in Payerbach, Austria, and Claimant [REDACTED], who was born on 13 March 1926 in Vienna. Claimant [REDACTED] further indicated that his father, who was Jewish, was a factory owner. In addition, Claimant [REDACTED] indicated that he, his sister and his father all fled Austria after its incorporation into the Reich in March 1938 (the “*Anschluss*”). Finally, Claimant [REDACTED] indicated that his mother remained in Austria, that she survived the Second World War, and that she died in Mödling, Austria on 16 April 1962.

Information Available in the Banks’ Records

Bank I

As noted in the October 2002 Award, Bank I’s records consist of printouts from Bank I’s database. According to these records, the Account Owner was Maria/Marie Brunner. Bank I’s records indicate that the Account Owner held two accounts of unknown type, one at Bank I’s Bern branch and one at Bank I’s Lucerne branch. Bank I’s records further indicate that the account of unknown type held at the Bern branch was transferred to a suspense account for dormant accounts on an unknown date, and that the amount in the account on the date of its transfer was 104.65 Swiss Francs (“SF”). Moreover, Bank I’s records indicate that the account of unknown type held at the Lucerne branch was transferred to a suspense account for dormant accounts on 10 August 1955, and that the amount in the account on the date of its transfer was SF 14.25. Finally, Bank I’s records indicate that both accounts of unknown type remain open and dormant.

Bank II

As noted in the October 2002 Award, Bank II’s records consist of a ledger card and a Power of Attorney form. According to these records, the Account Owner was Maria Brunner, who resided in Vienna, Austria, and the Power of Attorney Holder was Werner S. from Basel, Switzerland. Bank II’s records indicate that the Account Owner held one custody account and one demand deposit account. Moreover, Bank II’s records indicate that the custody account was opened on 9 June 1933, the day the Power of Attorney form was signed. Bank II’s records contain the Account Owner’s signature sample. Bank II’s records do not identify the relationship between the Account Owner and the Power of Attorney Holder. Moreover, Bank II’s records do not show

when the accounts at issue were closed, or to whom they were paid, 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 (“ICEP” or the “ICEP Investigation”) did not find these accounts in Bank II’s system of open accounts, and they therefore presumed that they were closed. There is no evidence in Bank II’s records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews residing within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to submit a census form registering all their assets as of 27 April 1938 (the “1938 Census”). As noted in the October 2002 Award, in the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Maria Brunner, numbered 23905. According to these records, Maria Brunner was born on 10 August 1891, and was married to Felix Brunner, who was Jewish. The records indicate that Maria Brunner and her husband resided at Mozartgasse 7 in Mödling, Austria, where they owned real estate worth 80,000.00 Reichsmark. The records also contain Maria Brunner’s signature. The records make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owner

In the October 2002 Award, the CRT determined that Claimant [REDACTED] plausibly identified the Account Owner. As explained in that award, Claimant [REDACTED] identified both published and unpublished information about the Account Owner contained in the Banks’ records. Moreover, the CRT noted that the information provided in the 1938 Census record submitted by Maria Brunner matched information provided by Claimant [REDACTED], and that the signature sample contained in the 1938 Census record matched the signature sample contained in Bank II’s records. Accordingly, the CRT determined that Claimant [REDACTED]’s mother and the Account Owner were the same person.

Claimant [REDACTED 1] has also plausibly identified the Account Owner. Claimant [REDACTED 1]’s relative’s name matches the published name of the Account Owner. Moreover, the CRT notes that the information submitted by Claimant [REDACTED 1] matches both the information provided by Claimant [REDACTED] and the information specified in the 1938 Census record submitted by Maria Brunner. Accordingly, the CRT determines that Claimant [REDACTED 1]’s relative is the same person as Claimant [REDACTED]’s mother, which in turn establishes that Claimant [REDACTED 1] has identified the Account Owner. Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Target of Nazi Persecution

In the October 2002 Award, the CRT determined that Claimant [REDACTED] made a plausible showing that the Account Owner was a Target of Nazi Persecution. Moreover, the CRT notes that the Account Owner's husband and heirs were all Victims of Nazi Persecution. Claimant [REDACTED] stated that the Account Owner's husband was Jewish, and that both he and the Account Owner's children were forced to flee Austria after the *Anschluss* in order to avoid Nazi persecution.

The Claimants' Relationships to the Account Owner

In the 2002 October Award, the CRT determined that Claimant [REDACTED] plausibly demonstrated that he is related to the Account Owner. Similarly, Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner, by submitting information demonstrating that the Account Owner was married to the grandson of Claimant [REDACTED 1]'s great-great-grandfather's brother. The CRT notes that Claimant [REDACTED 1] identified information that is both consistent with the information provided by Claimant [REDACTED], and with information specified in the Account Owner's 1938 Census records. The CRT further notes that Claimant [REDACTED 1] identified the Account Owner as a distant relative to whom he is related by marriage only, making it unlikely that he would possess extensive information regarding this relative. The CRT determines that all this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

In the October 2002 Award, the CRT determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the four accounts held at Bank I and Bank II.

Amount of the Award

In the October 2002 Award, the CRT determined that the total award amount was SF 276,480.00.

Entitlement to the Account

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. Moreover, according to Article 23(1)(g), only if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. Therefore, Claimant [REDACTED], as the Account Owner's son, has a better entitlement to the accounts than Claimant [REDACTED 1] and his brother, whom Claimant [REDACTED 1] is representing, given that they are related to the Account Owner by marriage only. Accordingly,

Claimant [REDACTED 1] and his brother are not entitled to any portion of the total award amount, and the October 2002 Award correctly awarded the total award amount to Claimant [REDACTED].

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant/s may appeal this Denial to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision. Appeals should be delivered to the following address: Office of Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001 USA.

Claimant [REDACTED 1] should send appeals in writing to the above address and should include all reasons for the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

Scope of the Denial

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 Denial

The CRT certifies this Denial for approval by the Court and by the Special Masters.

Claims Resolution Tribunal
15 July 2005