

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

[REDACTED 3],

[REDACTED 4],

and Bernard Adler

in re Account of Bernard Adler

Claim Numbers: 213293/AV; 213728/AV; 221909/AV; 300290/AV;¹ 782257/AV;² 788456/AV³

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), [REDACTED 3] (“Claimant [REDACTED 3]”), [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”), and Bernard Adler (“Claimant Bernard Adler”) (together the “Claimants”) to the published account of Bernard Adler (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 [REDACTED 1] (“Claimant [REDACTED 1]”) submitted an additional claim to the account of Elise Adler, née Lederman, which is registered under the Claim Number 221908. [REDACTED 2] (“Claimant [REDACTED 2]”) submitted an additional claim to the account of Max Adler, which is registered under the Claim Number 213727. [REDACTED 3] (“Claimant [REDACTED 3]”) submitted an additional claim to the account of Abraham Vegh, which is registered under the Claim Number 206086. The CRT will treat the claims to these accounts in separate determinations.

² [REDACTED 4] (“Claimant [REDACTED 4]”) did not submit a Claim Form to the Claims Resolution Tribunal. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0479-145, 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 782257.

³ Bernard Adler (“Claimant Bernard Adler”) also did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered ENG-0722-094, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 788456.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal grandfather, Bernhard Adler, who was born on 7 November 1869, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that his grandparents, who were both Jewish, resided in Schweinfurt, Germany. In addition, Claimant [REDACTED 1] indicated that his grandparents had two children, both born in Schweinfurt: [REDACTED] (Claimant [REDACTED 1]’s father), who was born on 21 June 1898, and [REDACTED]. Moreover, Claimant [REDACTED 1] indicated that his grandfather was deported to Theresienstadt during the early 1940s, and that he perished there on 27 February 1943. Claimant [REDACTED 1] indicated that he was born on 18 May 1926 in Mönchengladbach, Germany.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Bernhard Adler.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his paternal uncle, Bernard Adler, who was born to [REDACTED] and [REDACTED], née [REDACTED], in approximately 1903. Claimant [REDACTED 2] indicated that his uncle had five siblings: [REDACTED] (Claimant [REDACTED 2]’s father), who was born on 16 January 1905; [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]. Furthermore, Claimant [REDACTED 2] indicated that his uncle, who was Jewish, lived in Vienna III, Austria, until 1938, and that he owned a watch repair business. Moreover, Claimant [REDACTED 2] indicated that his father moved to Chicago, Illinois, the United States, in 1925, and that he helped his relatives, including Bernard Adler, emigrate to the United States after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). Claimant [REDACTED 2] indicated that he was born on 26 November 1938 in Chicago.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted two Claim Forms identifying the Account Owner as his father, Bernard Adler, who was born in 1880, and was married to [REDACTED]. Claimant [REDACTED 3] indicated that his father, who was Jewish, resided in various European countries, including Germany, Austria, Hungary, and Romania. Claimant [REDACTED 3] stated that his father served in the German army during World War I, after which he settled in Nižni Apša, Czechoslovakia (today the Ukraine), where he was the director of a wood processing company. Claimant [REDACTED 3] explained that his father considered the name “Adler” too foreign-sounding in Czechoslovakia, and therefore Claimant [REDACTED 3] and his siblings used their mother’s maiden name, Vegh. Claimant [REDACTED 3] indicated that both his parents perished at Auschwitz.

Claimant [REDACTED 3] submitted his father’s death certificate, issued by the district court of Liberci, Czechoslovakia (today the Czech Republic) on 1 March 1948, indicating that Bernad

Adler was deported to Auschwitz in May 1944, and that he likely perished there on 10 May 1944. Claimant [REDACTED 3] further submitted a provisional identification card issued for internees of the Mauthausen concentration camp, indicating that he was interned at the concentration camp from 15 June 1944 until 8 June 1945, and a copy of his Israeli identity card, identifying his father's first name as "Bernard." Claimant [REDACTED 3] indicated that he was born on 17 June 1924 in Nižni Apša.

Claimant [REDACTED 3] previously submitted an ATAG Ernst & Young claim form in 1998 and two IQs to the Court in 1999, in which he asserted his entitlement to a Swiss bank account owned by Klara Adler.⁴ In one of these IQs, Claimant [REDACTED 3] identified his father as Bernad Adler.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted an IQ to the Court in 1999, identifying the Account Owner as her brother, Bernhard Adler, who was born on 18 December 1929 in Germany, and was married to [REDACTED]. According to Claimant [REDACTED 4], her brother, who was Jewish, fled from Germany to Holland, but was subsequently deported to a concentration camp in Germany. Claimant [REDACTED 4] specified that her brother was a businessman and that he had two children: [REDACTED] and [REDACTED]. Claimant [REDACTED 4] indicated that her brother died in December 1986. Claimant [REDACTED 4] indicated that she was born on 30 November 1938 in Amsterdam, Holland.

Claimant Bernard Adler

Claimant Bernard Adler submitted an IQ with the Court in 1999, identifying the Account Owner as himself, Bernard (Bernhard) Adler, who was born on 13 April 1922 in Vienna, Austria. Claimant Bernard Adler, who is Jewish, stated that he resided with his family at Weissgasse 21 in Vienna. Claimant Bernard Adler indicated that after the "Night of Broken Glass" pogrom (*Kristallnacht*) on 9 November 1938, he fled from Austria to England on a *Kindertransport*. Claimant Bernard Adler explained that his brother had fled to Switzerland before *Kristallnacht*, and his parents and sister managed to travel there to meet him two to four weeks before the outbreak of the War. Claimant Bernard Adler explained that they planned to obtain refugee status there, and that he was to arrange for a work visa for his sister so that she could join him in England. Claimant Bernard Adler stated that shortly after the outbreak of the War, the Swiss police expelled his parents from Switzerland, and that his sister insisted on leaving with them. Claimant Bernard Adler stated that he learned later that after their expulsion from Switzerland, his parents and sister were deported to Minsk, where they were murdered by the Nazis.

Information Available in the Bank's Records

The Bank's records consist of a transfer note, a list of suspended accounts and printouts from the Bank's database. According to these records, the Account Owner was Bernard Adler. The

⁴ The CRT will treat the claim to this account in a separate determination.

Bank's records do not specify the Account Owner's place of residence. The Bank's records indicate that the Account Owner held an account, numbered 288.82, the type of which is not indicated. The Bank's records indicate that the account was considered dormant and was transferred to a suspense account on 25 March 1960. The amount in the account on the date of its transfer was 389.20 Swiss Francs ("SF"). The account remains suspended.

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 Bernard Adler, numbered 41633. These records include Bernhard Adler's Census declaration, which he signed on 15 July 1938 in Vienna, and which indicates that he was born on 1 October 1903, that he was married to [REDACTED], née [REDACTED], that he lived at Taborstrasse 11a in Vienna, and that he was a trade representative. In addition, these records indicate that Bernard Adler was a silent partner in a business owned by [REDACTED], located at Lustig Preangasse 1 in Vienna III, and that the value of his share was 19,387.30 Reichsmark ("RM"). These records make no mention of assets held in a Swiss bank account.

In the records of the Austrian State Archive, there are also records concerning the assets of [REDACTED], numbered 24358. These records indicate that [REDACTED] was born on 29 July 1902, that he was married to [REDACTED], née [REDACTED], that he lived at Lustig Preangasse 1 in Vienna III, and that he was a trade representative and wholesale watch dealer. These records also make no mention of assets held in a Swiss bank account.

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 six claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants' relatives' names each match the published name of the Account Owner.⁵ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

⁵ The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 4] identified their relatives as "Bernhard Adler," and that documents submitted by Claimant [REDACTED 3] identify his father as "Bernad Adler." The CRT further notes that the names "Bernhard" and "Bernad" are variants of the name "Bernard," and therefore concludes that these discrepancies do not adversely affect the identifications of the Account Owner.

In support of his claim, Claimant [REDACTED 3] submitted documents, including his father's death certificate and Claimant [REDACTED 3]'s Israeli identification card, identifying his father as Bernad Adler and Bernard Adler, respectively, providing independent verification that the person who is claimed by Claimant [REDACTED 3] to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

With respect to Claimant [REDACTED 2], the CRT notes that the 1938 Census submissions of Bernard Adler and [REDACTED] indicate that Bernard Adler was from Vienna, that he was born in 1903, and that he was a silent partner in a watch agency, all of which matches information provided by Claimant [REDACTED 2] about his uncle. Consequently, these records provide independent verification that the person who is claimed by Claimant [REDACTED 2] 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 Claimant Bernard Adler is claiming an account in his own name, but did not provide any information about opening the account. However, Claimant Bernard Adler was a minor at the time that the account was likely opened. Further, the CRT notes that Claimant Bernard Adler stated that his brother fled to Switzerland and was followed by his parents and his sister, and finds it plausible that a family member opened the account in his name to provide him with financial security.

The CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 4], and Claimant Bernard Adler filed IQs with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Bernhard Adler or Bernard Adler, prior to the publication in February 2001 of the list of accounts prepared pursuant to the investigation of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), and determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1], Claimant [REDACTED 4], and Claimant Bernard Adler have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relatives, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] and Claimant [REDACTED 4] had reason to believe that their relatives owned a Swiss bank account prior to the publication of the ICEP List and that Claimant Bernard Adler had reason to believe that he owned a Swiss bank account prior to the publication of the List. This supports the credibility of the information provided by Claimant [REDACTED 1], Claimant [REDACTED 4], and Claimant Bernard Adler.

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2]'s relative, Claimant [REDACTED 3]'s relative, Claimant [REDACTED 4]'s relative, and Claimant Bernard Adler are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; 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 that would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant

[REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], and Claimant Bernard Adler have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants each stated that the Account Owner was Jewish. Claimant [REDACTED 1] indicated that his grandfather was deported to Theresienstadt during the early 1940s, and that he perished there on 27 February 1943. Claimant [REDACTED 2]'s uncle's 1938 Census record indicates that he was living in Vienna as of 15 July 1938, after the *Anschluss*. Claimant [REDACTED 3] submitted his father's death certificate, which indicates that his father perished on 10 May 1944 at Auschwitz. Claimant [REDACTED 4] indicated that her brother was deported to a concentration camp. Claimant Bernard Adler indicated that he resided in Vienna until he fled to England after *Kristallnacht*.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather. The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List. The CRT further 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 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s uncle. The CRT notes that Claimant [REDACTED 2] identified unpublished information contained in Bernard Adler's 1938 Census records. Furthermore, 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 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 3]'s father. These documents include Claimant [REDACTED 3]'s Israeli

identity card, indicating that his father's name was Bernard. The CRT further notes that Claimant [REDACTED 3] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 3], prior to the publication in February 2001 of the ICEP List. In addition, the CRT notes that the Claimant submitted a copy of Bernard Adler's death certificate. The CRT notes that it is plausible that this document is a document 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 the Account Owner 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 the Account Owner, as he has asserted in his Claim Forms.

Claimant [REDACTED 4]

Claimant [REDACTED 4] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 4]'s brother. The CRT notes that Claimant [REDACTED 4] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 4], prior to the publication in February 2001 of the ICEP List. Furthermore, 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 4] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 4] is related to the Account Owner, as she has asserted in her IQ. The CRT notes that Claimant [REDACTED 4] stated that her brother had two children: [REDACTED] and [REDACTED], and that she is not representing them.

Claimant Bernard Adler

Claimant Bernard Adler has plausibly demonstrated that he himself is the Account Owner.

As noted above, the CRT notes that Claimant [REDACTED 4] stated that her brother had two children, but she is not representing them and they have not filed a claim to their father's account. There is no information to indicate that any of the other individuals identified as the Account Owner by the Claimants have other surviving heirs who have filed a claim.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account, where it remains.

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] has plausibly demonstrated that the Account Owner was his grandfather, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his uncle, Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his

father, Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was her brother, and Claimant Bernard Adler has plausibly demonstrated that he is the Account owner, and those relationships justify an Award. Third, the CRT has determined 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 account of unknown type. The Bank's records indicate that the value of the account of unknown type as of 25 March 1960 was SF 389.20. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 240.00, which reflects standardized bank fees charged to the account between 1945 and 1960. Consequently, the adjusted 1945 balance of the account at issue is SF 629.20. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award 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 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 the Account Owner. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4] and Claimant Bernard Adler are each entitled to one-fifth of the total 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
6 May 2006