

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]¹

in re Account of August Auer

Claim Numbers: 150112/MBC; 150113/MBC

Award Amount: 20,011.25 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the Claimant) to the accounts of August Auer and Hilda Auer.² This award is to the published account of August Auer (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.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying the Account Owner as her late husband's paternal great-uncle, August Auer, who was born between 1870 and 1880 in Czernowitz, Romania (today Chernivtsi, Ukraine), and was married to [REDACTED] in the early 1920s in Germany. The Claimant stated that August Auer and [REDACTED] had two children: [REDACTED] and [REDACTED]. According to the Claimant, August Auer, who was Jewish, was a businessman who owned a successful store in Berlin, Germany. The Claimant indicated that August Auer resided outside of Berlin during the 1930s, and that he had family members who resided in various towns across Germany. In support of her claim, the Claimant submitted copies of her late husband's passport, identifying him as [REDACTED], who was born in Budapest, Hungary; her mother-in-law's passport, identifying her as [REDACTED]; and a detailed family tree, indicating that August Auer was the paternal great-uncle of the Claimant's late husband. The Claimant indicated that she was born on 26 July 1932 in Iassi, Romania.

¹ The Claimant provided her name and some of her relatives' names only in Hebrew characters in the Claim Form. For the purpose of this written decision, the CRT has transliterated these names into Latin characters.

² The CRT will treat the claim to the account of Hilda Auer in a separate determination.

Information Available in the Bank's Records

The Bank's records consist of an excerpt from the Bank's list of German accounts in 1942 and an excerpt from the Bank's ledger. According to these records, the Account Owner was August Auer, who resided in Reichenau, Germany. The Bank's records indicate that the Account Owner held a savings/passbook account, numbered 54032, which had a balance of 1,600.90 Swiss Francs (SF) as of 31 December 1942, and was assessed bank fees of SF 6.00 in 1947.

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 Account-Owner initiated activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owner

The name of the Claimant's great-uncle by marriage matches the published name of the Account Owner. The Claimant indicated that her relative resided outside of Berlin, which is approximately 180 kilometers from a town called Reichenau.³ The CRT further notes that the Claimant indicated that the Account Owner had family members who resided in various towns across Germany. The CRT notes that it is plausible that the Claimant's great-uncle by marriage resided in Reichenau or used an address of a relative in Reichenau when opening a bank account.

The CRT notes that the name August Auer appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

In support of her claim, the Claimant submitted copies of her late spouse's passport, her mother-in-law's passport, and a detailed family tree. These documents provide independent verification that the person who is claimed to be the Account Owner had the same last name recorded in the Bank's records as the name of the Account Owner. The CRT notes that there are no other claims

³ The CRT notes that there are five cities in Germany named Reichenau. The Bank records do not indicate which one was the Account Owner's city of residence.

to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 indicated that the Account Owner was Jewish, and that he resided in Nazi Germany during the 1930s.

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 demonstrating that he was her late husband's great-uncle. The CRT notes that the Claimant submitted a copy of her late husband's passport, a copy of her mother-in-law's passport, and a detailed family tree. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess and that they provide independent verification that the Claimant's relatives bore the same family name as the Account Owner. 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi Germany during the 1930s; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; 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 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 claims are 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 late husband's great-uncle, and that relationship justifies an Award. Finally, 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 savings/passbook account. The Bank's records indicate that the value of the savings/passbook account as of 31 December 1942 was SF 1,600.90. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 20,011.25.

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 claims 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
27 February 2007