

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Madeline Elisabeth Heumann

in re Account of Siegmund Baer

Claim Number: 215394/AX¹

Award Amount: 27,500.00 Swiss Francs

This Certified Award is based upon the claim of Madeline Elisabeth Heumann, née Baer, (the “Claimant”) to the published account of Siegmund Baer. This Award is to the unpublished account of Siegmund Baer (the “Account Owner”) at the Basle branch of the [REDACTED] (the “Bank”).²

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Siegmund Baer, who was born on 27 February 1901 in Untergrombach, Germany, and was married to Bella Baer, née Elkan, on 12 February 1933 in Germany. The Claimant stated that her father’s parents were Berthold Baer and Caroline Baer, née Strauss, who resided in Basle, Switzerland. The Claimant indicated that her father, who was a steel trader, resided and owned a metal business named *Arssan* in St. Louis, France, and that in anticipation of the Nazi invasion of France, in 1939, the Claimant’s family fled to La Bourboule, France, from St. Louis because it was further away from Germany. The Claimant stated that her father, who was Jewish, was later arrested in La Bourboule by the French authorities and sent to a military camp. The Claimant indicated that when her father was released, he rejoined the Claimant and her mother, and they all fled to the United States on 11 November 1941. The Claimant stated that her father died on 10 March 1975

¹ The Claimant submitted an additional claim to the account of her grandfather, Albert Elkan, which is registered under the claim number 215393. The CRT has awarded the accounts of Albert Elkan to the Claimant. This award was approved by the Court on 22 December 2003. See *In re Account of Albert Elkan*.

² The CRT notes that the name Siegmund Baer appears as “Siegmund Baer [Germany]” on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). This Award addresses an unpublished account belonging to another person named Siegmund Baer. The Claimant’s claim to the published account of Siegmund Baer [Germany] will be treated in a separate decision.

in New York, New York, the United States. In support of her claim, the Claimant submitted a copy of her mother's death certificate, indicating her name as Bella Baer, that the Claimant was her daughter, and that she died on 11 May 2001 in New York. The Claimant indicated that she was born on 23 October 1933 in Mulhouse, France.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Siegmund Baer who resided in St. Louis, France. The Bank's record indicates that the Account Owner held a *Bürge* (surety) account. The Bank's record further indicates that the account was opened on 24 January 1939 and that the Account Owner opened it in order for the assets it contained to be used as collateral for a loan that he guaranteed for both a company named *Arsan S.à.r.l.* (Arsan Ltd.) located in St Louis and a Mr. Fritz Bruchsalser. The amount that was secured was crossed out on an unknown date. The lien was cancelled on an unknown date no later than 1945. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her father's name and place of residence match the unpublished name and place of residence of the Account Owner. The Claimant indicated that his father owned a company named *Arssan* in St. Louis, which matches the unpublished name and headquarters of the company contained in the Bank's record. The Claimant stated that her paternal grandparents resided in Basle, Switzerland, which is consistent with unpublished information about the branch of the Bank where the account was located. In support of her claim, the Claimant submitted a copy of her mother's death certificate, indicating her mother's name was Bella Baer, providing independent verification that a relative of the person who is claimed to be the Account Owner had the same family name recorded in the Bank's record as the family name of the Account Owner. The CRT notes that there are no other claims to this account.

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 was Jewish, and that to escape the threats of Nazi persecution, he fled to La Bourboule in 1939, and later to the United States in 1941.

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 the Account Owner was the Claimant's father. The CRT notes that the Claimant submitted a copy of her mother's death certificate, indicating her name as

Bella Baer, and that the Claimant is her daughter, which provides independent verification that the Claimant's relative bore the same family name as the Account Owner. 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 fled to the United States on 11 November 1941; that the lien was cancelled on an unknown date but no later than 1945; that the Account Owner and his heirs would not have been able to obtain information about the 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 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 father, 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 a *Bürge* (surety) account, which under the Rules is considered to be an account of "other" 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value an account of other type was 2,200.00 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 27,500.00.

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 claim 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
8 August 2004