

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to the Estate of Claimant [REDACTED]<sup>1</sup>  
represented by Svetlana Shklarov

## **in re Accounts of Arpad Bauer and Annie Bauer**

Claim Number: 216074/HS<sup>2</sup>

Award Amount: 64,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Arpad Bauer. This award is to the accounts of Arpad Bauer (“Account Owner Arpad Bauer”) and Annie Bauer (“Account Owner Annie Bauer”) (together, the “Account Owners”) at the Lucerne branch of the [REDACTED] (the “Bank”).<sup>3</sup>

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

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<sup>1</sup> The wife of Claimant [REDACTED], [REDACTED], informed the CRT that her husband passed away on 17 December 2001.

<sup>2</sup> The Claimant submitted additional claims to the accounts of [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 216075, 216076, and 216120. The CRT will treat the claims to these accounts in separate decisions. The Claimant also submitted claims to the accounts of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 216075, 216076, 216120, 216139, 216151, and 216467. The CRT did not locate any accounts belonging to the Claimant’s relatives, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], or [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimant should be aware that the CRT will carry out further research on his claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

<sup>3</sup> The CRT notes that, 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”), Arpad Bauer is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

## Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandfather's brother, Arpad Bauer, who was born in Solt, Hungary, and later resided in Budapest, Hungary. The Claimant stated that he had little knowledge of his great-uncle, who was Jewish, except for the fact that he was murdered in Auschwitz in 1943. The Claimant added that he was only five years old when the Second World War began, and six years of age the last time he saw his grandfather. The Claimant also stated that while most of his family perished in the Second World War, he went into hiding with his mother, using falsified papers, and survived despite being captured for a period of time between 1943 and 1945. In support of his claim the Claimant submitted his birth certificate, issued in Budapest and stating that he is the son of [REDACTED], and a family tree, showing that his grandfather's brother was Arpad Bauer. The Claimant's wife, [REDACTED], stated that the Claimant passed away on 17 December 2001 in Calgary, Alberta, Canada, and submitted his death certificate, which also shows that the Claimant was born on 16 January 1935 in Budapest.

## Information Available in the Bank's Records

The Bank's records consist of a list of accounts that were frozen pursuant to the 1945 freeze of assets held in Switzerland by citizens of Germany and territories incorporated into the Reich (the "1945 Freeze"), and printouts from the Bank's database. According to these records, the Account Owners were Arpad Bauer and *Frau* (Mrs.) Annie Bauer who resided in Budapest. The Bank's records indicate that at some stage, the typed word Budapest was crossed out and was replaced by the word "Germany." However, the records do not show why the place of residence of the Account Owners was changed.

The Bank's records indicate that the Account Owners held a safe deposit box, numbered 244, and an account, the type of which is not indicated. These records also indicate that the safe deposit box was opened and its contents preserved in Bank custody. The records further indicate that after the safe deposit box was opened, "the matter remained with the Section for German Freeze for clarification."<sup>4</sup> The Bank's records indicate that both the Account Owners' accounts were unfrozen in December 1953. The Bank's records do not indicate the opening or closing dates of the safe deposit box or the account of unknown type, nor do they show the contents of the safe deposit box or the value of the unknown type of account. 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 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 Owners or their heirs closed the accounts and received the proceeds themselves.

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<sup>4</sup> "Die Angelegenheit befindet sich bei der Abteilung Z'sperre D'land noch in Abklärung."

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant's great-uncle's name matches the published name of Account Owner Arpad Bauer. The Claimant identified his great-uncle's place of residence as Budapest, Hungary, which matches published information about Account Owner Arpad Bauer contained in the Bank's records.

The CRT notes that the Claimant did not identify Account Owner Annie Bauer and did not indicate his great-uncle's wife's name. The CRT additionally notes that in the Bank's records the Account Owner's residence was changed from Budapest to Germany. Finally, the CRT also notes that the Account Owners' accounts were frozen pursuant to the 1945 Freeze, which included of assets owned by nationals of "Greater Germany", and that this freeze did not include Hungary, since Hungary was not incorporated into the Third Reich.

However, considering that the Bank's records show the Account Owner's address initially to have been Budapest and that it is impossible to determine from the Bank's records when or why that address was crossed out and replaced with Germany; that the the accounts remained with an internal office for "clarification" regarding the freeze; and considering that the Claimant indicated he possesses very little information about his great-uncle except that he resided at some time in Budapest and that he perished in Auschwitz in 1943, the CRT concludes that the information contained in the Bank's records is not inconsistent with that provided by the Claimant.

The CRT also notes that the name Arpad Bauer 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"). The CRT further notes that there are no other claims to these accounts. Taking all 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 Account Owner Arpad Bauer was a Victim of Nazi Persecution. The Claimant stated that Account Owner Arpad Bauer was Jewish, and that he perished in Auschwitz in 1943.

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to Account Owner Arpad Bauer by providing his own birth certificate, showing that the Claimant's maternal relatives had the same surname and resided in the same city as the Account Owners; and a family tree, demonstrating that Arpad Bauer was his grandfather's brother.

## The Issue of Who Received the Proceeds

Given that Account Owner Arpad Bauer was deported to a concentration camp where he perished; that, while there is no record of the fate of Account Owner Annie Bauer, neither is there any record of the payment of the Account Owners' accounts to them or their heirs; that the Account Owners' accounts were frozen in 1945 and continued to exist after the Second World War; that the Account Owners or their heirs would not have been able to obtain information about their accounts 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 Owners 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. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Arpad Bauer was his great-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

## Amount of the Award

In this case, the Account Owners held one safe deposit box and one account of unknown 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 current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a safe deposit box was 1,240.00 Swiss Francs ("SF") and the average value of an account of unknown type was SF 3,950.00, producing a total 1945 average value of SF 5,190.00. 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 64,875.00.

## **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 his claim 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  
24 December 2004