

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Claudius Popovici,

and to Claimant Cornelia Zissu-Hindichi

in re Account of Rudolf Aronson

Claim Numbers: 207773/LH;¹ 208485/LH

Award Amount: 274,491.88 Swiss Francs

This Certified Award is based upon the claims of Claudius Popovici (“Claimant Popovici”) and the claims of Cornelia Margareta Zissu-Hindichi, née Popovici, (“Claimant Zissu-Hindichi”) (together the “Claimants”) to the published account of Rudolf Aronson (the “Account Owner”), over which Myron Popovici held power of attorney (the “Power of Attorney Holder”), at the Zurich 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 Claimants

Claimant Popovici submitted two Claim Forms, three Initial Questionnaires (“IQs”) and four ATAG Ernst & Young claim forms (“ATAG Forms”), and his sister Claimant Zissu-Hindichi submitted a Claim Form and an ATAG Form, identifying the Account Owner as their paternal grandmother’s second husband, Rudolf Aronson, who was born on 11 July 1884 in Brasov, Romania, and was married to Irene (Irina) Irma Popovici, née Weiss, on 3 June 1912 in Brasov. According to the Claimants, their grandmother Irene Popovici divorced her first husband and subsequently married Rudolf Aronson, who was Jewish; the Claimants stated that Rudolf Aronson was the step-father of their father Myron Popovici, who was born on 8 September 1903.

¹ Claimant Cornelia Zissu-Hindichi (“Claimant Zissu-Hindichi”) submitted an additional claim, which is registered under the Claim Number 708656. The CRT has determined that this claim and claim 207773 are duplicate claims and is treating them under the consolidated Claim Number 207773.

² The name Rudolf Aronson (the “Account Owner”) appears on the List of Account Owners Published in 2005 (the “2005 List”). Additionally, the CRT notes that, on the list of account owners reported in the 1962 Survey (further defined in the body of the award) (the “1962 Survey List”), the Account Owner’s name appears as Rudolf Aronson, and his residence is listed as Bucharest, Romania, and the name Myron Popovici is indicated as the power of attorney holder on the account.

The Claimants stated that their step-grandfather Rudolf Aronson was the owner and director of an international travel company, *Romania S.A.*, located at Str. Doamnei 1 in Bucharest, Romania, and that their father was deputy director of the company. The Claimants indicated that their step-grandfather traveled frequently on business and retained a permanent visa for Switzerland from 1935 onwards. According to the Claimants, their step-grandfather maintained both business and private bank accounts, over which their father had power of attorney, with Swiss banks.

The Claimants further indicated that their step-grandfather resided in Bucharest until his death on 30 April 1940. The Claimants stated that the assets of their step-grandfather's brother and sisters were expropriated by the Nazi-allied authorities in Romania after 1940. According to the Claimants, one of Rudolf Aronson's sisters, Melanie Gyori, née Aronson, was deported together with her pregnant daughter-in-law from Baile Tusnad, Romania, to Auschwitz, where they both perished.

In support of their claims, the Claimants submitted copies of the following documents: (1) their step-grandfather's marriage certificate, indicating that Rudolf Aronson, who was Jewish, was born on 11 July 1884 in Brasov and married Irene Aronson, née Weiss, who was divorced; (2) their father's birth certificate, indicating that Miron Popovici was born on 8 September 1903 to Vasile Popovici and Irina Popovici, née Vais; (3) their father's death certificate, indicating that Miron Popovici died on 19 July 1985 in Bucharest; (4) Claimant Zissu-Hindichi's birth certificate, indicating that Cornelia Margareta Anna Maria Maya Popovici was born on 18 May 1927 in Vienna, Austria, and that her father was Miron Popovici; (5) Claimant Popovici's birth certificate, indicating that Claudius Popovici was born on 27 May 1935 in Brasov and that his father was Miron Popovici; (6) the Claimants' step-grandfather's death certificate, indicating that Rudolf Aronson died on 30 April 1940 in Bucharest; (7) their grandmother's death certificate, indicating that Irina Aronsohn died on 24 January 1960 in Teliu, Brasov; (8) their step-grandfather's will, indicating that Rudolf Aronson bequeathed his estate to his wife, Irma Aronson; and (9) a certificate of inheritance of their grandmother Irina Aronson's estate, dated 1 October 1998, which identifies the Claimants as their grandmother's surviving heirs.

Claimant Popovici indicated that he was born on 27 May 1935 in Brasov. Claimant Zissu-Hindichi indicated that she was born on 18 May 1927 in Vienna.

Information Available in the Bank's Records

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey"). The Bank's records consist of a printout from the Bank's database and documents indicating that the Account Owner's assets were reported in the 1962 Survey.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about the Account Owner's account ("Voluntary Assistance").

The Bank provided the CRT with additional documents. These documents consist of excerpts from the Bank's ledger; bank statements, dated 9 July 1973, 13 July 1973 and 26 July 1973; lists of accounts at the Bank; and internal bank correspondence.

According to these records, the Account Owner was Rudolf Aronson, who resided in Bucharest, Romania, and as of 1940 used the business address of *Romania Societate Comerciala oficiala de Turism S.A.R.* at Strada Doamnei 1 in Bucharest. The Power of Attorney Holder was Myron Popovici. The records indicate that the Account Owner originally held a demand deposit account at the Bank.

The records indicate that the Bank was informed by an unknown party that the Account Owner died in approximately 1942; however, the Bank did not receive any correspondence from the Account Owner's heirs after that time, and the account was therefore reported by the Bank in the 1962 Survey.

The records indicate that the Account Owner's demand deposit account had a balance of 21,674.35 Swiss Francs ("SF") as of 1 September 1963, and a balance of SF 21,570.00 on 31 December 1964. The documents indicate that the demand deposit account was closed on 21 November 1968, and that a savings account, numbered 603767, was opened on 15 November 1968, and a custody account, numbered 218.880.R1, was opened on 10 December 1968, and both of these accounts were held in the Account Owner's name. These documents also indicate that on 30 June 1969, 5% *Schweizerische Bankgesellschaft, fällig am 1. Dezember 1976* bonds with a face value of SF 21,000.00 were purchased by the Bank in the Account Owner's name, and deposited in custody account 218.880.R1, and that the income from these bonds was to be transferred to savings account 603767.

According to a document, dated 9 December 1966, the Guardianship Authorities of the City of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) appointed Dr. H. Häberlin trustee of this account.

An internal bank memorandum indicates that heirless accounts such as these were to be liquidated and transferred to a collective account for heirless assets held by the Swiss government. These records indicate that the savings account was closed and transferred to the Swiss Federal Accounting Office in Bern (*Eidgenössische Kassen - und Rechnungswesen*) on 26 July of 1973, at which time it had a balance of SF 3,683.00. The records also indicate that the custody account was closed some time in 1973, and that the securities that it contained were transferred 'in natura' to the Swiss Federal Accounting Office in Bern in the Account Owner's name.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed these accounts 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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner and the Power of Attorney Holder. The Claimants' step-grandfather's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's business name and business address, which match unpublished information about the Account Owner contained in the Bank's records. The Claimants' father's name also matches the published name of the Power of Attorney Holder.

In support of their claims, the Claimants submitted documents, including their step-grandfather's marriage and death certificates, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence 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 CRT notes that while the Account Owner died prior to the formation of the Romanian alliance with Nazi Germany, the Account Owner's brother and sisters were Victims of Nazi Persecution. The Claimants stated that the Account Owner's brother and sisters were Jewish, that they resided in Nazi-allied Romania, and that their assets were expropriated by the Nazi-allied authorities in Romania after 1940. The Claimants further indicated that one of the Account Owner's sisters, Melanie Gyori, née Aronson, was deported, together with her pregnant daughter-in-law, from Baile Tusnad to Auschwitz, where they both perished.

The Claimants' Relationships to the Account Owner

The Claimants, who are siblings, have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' step-grandfather. These documents include their step-grandfather's marriage certificate, indicating that Rudolf Aronson was married to Irene Aronson, née Weiss; their father's birth certificate, indicating that Miron Popovici's mother was Irina Popovici, née Vais; and their own birth certificates, indicating that Claimant Popovici and Claimant Zissu-Hindichi are the son and daughter of Miron Popovici. There is no information to indicate that the Account Owner or the Power of Attorney Holder have other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the records in this case indicate that the Bank was informed by an unknown party that the Account Owner died in approximately 1942; however, the Bank did not receive any correspondence from the Account Owner's heirs after that time, and the account was therefore reported by the Bank in the 1962 Survey. Moreover, the records indicate that the Account Owner's demand deposit account had a balance of SF 21,674.35 as of 1 September 1963, and a balance of SF 21,570.00 on 31 December 1964. They also show that the demand deposit account was closed on 21 November 1968, and that a savings account, numbered 603767, was opened on 15 November 1968, and a custody account, numbered 218.880.R1, was opened on 10 December 1968, and both of these accounts were held in the Account Owner's name. These documents also indicate that on 30 June 1969, 5% *Schweizerische Bankgesellschaft, fällig am 1. Dezember 1976* bonds with a face value of SF 21,000.00 were purchased by the Bank in the Account Owner's name, and deposited in custody account 218.880.R1, and that the income from these bonds was to be transferred to savings account 603767.

An internal bank memorandum indicates that heirless accounts such as these were to be liquidated and transferred to a collective account for heirless assets held by the Swiss government. These records indicate that the savings account was closed and transferred to the Swiss Federal Accounting Office in Bern (*Eidgenössische Kassen - und Rechnungswesen*) on 26 July of 1973, at which time it had a balance of SF 3,683.00. The records also indicate that the custody account was closed some time in 1973, and that the securities that it contained were transferred 'in natura' to the Swiss Federal Accounting Office in Bern in the Account Owner's name.

Based upon these records, it is clear that the Bank continued to manage the account after becoming aware of the Account Owner's death in 1942 and even after it was reported in the 1962 Survey so that the account would generate additional income, and that this additional income, together with the amount originally in the account, was transferred into the Swiss Heirless Assets Fund.

Given these facts, and given that the Account Owner died on 30 April 1940; that the Bank's records indicate that the demand deposit account was closed on 21 November 1968, and that the Bank had no contact with the Power of Attorney Holder following notification that the Account Owner had died; that there is no record of the payment of the Account Owner's account to him or his heirs; that the Account Owner's 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), (i), and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their step-grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Power of Attorney Holder nor the Account Owner's heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account.³ The Bank's records indicate that the value of the account as of 1 September 1963 was SF 21,674.35. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 21,959.35. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 274,491.88.

Division of the Award

According to Article 23(2)(b) of the Rules, if none of the beneficiaries named in the Account Owner's will has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. In this case, the Claimants, who are siblings, have provided the Account Owner's will and his wife's certificate of inheritance, demonstrating that they are the surviving heirs of the Account Owner's wife, who was the Account Owner's sole heir. Accordingly, Claimant Popovici and Claimant Zissu-Hindichi are each entitled to one-half 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).

³ The CRT notes that while the Bank's records indicate that the demand deposit account was later closed and both a savings account and a custody account opened in its place, the balance of the demand deposit account was transferred into the custody account, such that the value of the Account Owner's assets at the Bank remained relatively consistent after 1963. Accordingly, the CRT will base the value of the Account Owner's assets at the Bank on the value of his assets as of 1963, and not on the number of accounts that he held at any particular time.

Certification of the Award

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

Claims Resolution Tribunal
18 December 2008