

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Rosel Ascher

Claim Number: 501647/CN

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Rosel Ascher (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her paternal aunt, Rosel (Rosa, Rosl) Ascher, née Hess, who was born on 4 November 1899 in Bamberg, Germany. The Claimant indicated that her father, [REDACTED], and her aunt, who were Jewish, were the children of [REDACTED] and [REDACTED], née [REDACTED], and that they lived in Bamberg, where her aunt was a partner in the family company, *S. Hess*. Additionally, the Claimant indicated that her aunt was confined to a psychiatric institution in December 1940, and subsequently deported to a camp, although the Claimant did not indicate her fate. The Claimant indicated that her father, [REDACTED], was deported to Dachau, and that after being freed, he and his family fled to Switzerland and subsequently to Cuba. The Claimant indicated that she has two sisters, both of whom are still alive.

The Claimant submitted copies of: (1) extracts from a commercial register indicating that Rosl Ascher lived in Bamberg; (2) a letter dated 3 May 2005 from the archives of the city of Bamberg, stating their records indicated that Rosa Hess was born on 4 November 1902 in Bamberg and her parents were [REDACTED] and [REDACTED], née [REDACTED]; had a brother Friedrich, born on 7 August 1902 in Bamberg; married [REDACTED], but divorced on 12 July 1930; registered at a sanatorium on 26 October 1938; returned to Bamberg 25 July 1940, but was institutionalized again on 28 November 1940; transported to Bendorf on 30 December 1940; and that after this date, no further information was known; and (3) the Claimant’s birth

certificate, indicating that she was born on 27 July 1948 in Havana; her parents were [REDACTED] and [REDACTED]; and her father was from Bamberg.

The Claimant indicated that she was born on 27 July 1948 in Havana-Vedado, Cuba.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Rosel Ascher, who resided in Bamberg, Germany. The Bank's record indicates that the Account Owner held a demand deposit account, which was closed on 20 June 1942. The amount in the account on the date of its closure is unknown.

There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's aunt's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including extracts from a commercial register and a letter from the archives of the city of Bamberg, 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 record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes an entry by Friedrich Hess, submitted in 1977, about a person named Rosel Ascher, née Hess, and indicates that she was born on 4 November 1889 in Bamberg, that her parents were [REDACTED] and [REDACTED], that she was divorced, that she was sent to a mental institution, and was subsequently gassed on 14 June 1942, and that she and [REDACTED] were siblings. This information matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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

The CRT notes that there are no other claims to this account. 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 the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that she resided in Nazi Germany, and that she was deported from a psychiatric institution to a camp. As noted above, a person named Rosel Ascher was included in the CRT's database of victims, which indicates that she was murdered in 1942.

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 and documents, demonstrating that the Account Owner was the Claimant's aunt. These documents include the Claimant's birth certificate, indicating that her father was Friedrich Hess, as well as a letter from the archives of the city of Bamberg, indicating that Rosa Ascher and [REDACTED] were siblings. The CRT notes that information in the Yad Vashem records indicates that Rosel Ascher, née Hess, was the daughter of [REDACTED] and [REDACTED], and that she had a brother named [REDACTED].

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record; and that the information provided by the Claimant is consistent with information provided in 1977 by the Claimant's father to Yad Vashem. The CRT further notes that the Claimant submitted copies of extracts from a commercial register, her own birth certificate, and a letter from the archives of the city of Bamberg providing independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Bamberg. 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 the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The CRT notes that the Claimant indicated that she has two living sisters, and that neither of them has submitted claims on their own behalf, nor are they represented in the Claimant's claim.

The Issue of Who Received the Proceeds

Given that the Account Owner lived in Nazi Germany until being deported to a camp, where she perished; that the account was closed on 20 June 1942, six days after she was murdered by the Nazis; that there is no record of the payment of the Account Owner's account to her heirs; that her heirs would not have been able to obtain information about her 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; 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 her 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 aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

The CRT notes that the Claimant's sisters would be equally entitled to the Account Owner's account, but because they have not submitted claims and are not represented in the Claimant's claim, their potential entitlement to the Account Owner's account will not be treated in this decision.

Amount of the Award

In this case, the Account Owner held one demand deposit account. 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 demand deposit account was 2,140.00 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 26,750.00.

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
20 October 2006