

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Rudolph Hohenberg

and to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3]

in re Account of Rudolf Hohenberg

Claim Numbers: 200477/JW; 201872/JW; 209339/JW^{1,2}

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Rudolph (or Rudolf) Hohenberg (“Claimant Rudolph Hohenberg”) to the published account of Rudolf Hohenberg, the claim of [REDACTED1] (“Claimant [REDACTED 1]”) to the published accounts of Rudolf Hohenberg, Julie Hohenberg, and Nelly Schwarz, and the claim of [REDACTED 2], née [REDACTED], (“[REDACTED 2]”) (together the “Claimants”) to the accounts of Nelly Schwarz and Erich Schwarz.^{3,4} This award is to the published account of Rudolf Hohenberg (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where the claimants have 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.

¹ Claimant Rudolph Hohenberg submitted an additional claim to the account of Julie Hohenberg, which is registered under the Claim Number 201645. In a separate decision, the CRT awarded the account of Julie Hohenberg to Claimant Rudolph Hohenberg. See *In re Account of Julie Hohenberg* (approved on 22 December 2003).

² Claimant [REDACTED 2] submitted an additional claim in 2005 to the account of [REDACTED], which is registered under the Claim Number 401475. The CRT will treat this claim in a separate determination.

³ The CRT will treat Claimant [REDACTED 1]’s claims to the accounts of Julie Hohenberg and Nelly Schwarz in a separate determination.

⁴ In a separate decision, the CRT denied [REDACTED 2]’s claim to the accounts of Nelly Schwarz. See *In re Accounts of Nelly Schwarz* (approved on 21 September 2005). The CRT will treat [REDACTED 2]’s claim to the account of Erich Schwarz in a separate determination.

Information Provided by the Claimants

Claimant Rudolph Hohenberg

Claimant Rudolph Hohenberg submitted a Claim Form identifying the Account Owner as himself. Claimant Rudolph Hohenberg, who is Jewish, indicated that he was born on 27 February 1929 in Vienna, Austria, where he lived with his parents, [REDACTED] and [REDACTED], née [REDACTED]. Claimant Rudolph Hohenberg indicated that his family resided at Kübeckgasse 16 in Vienna until September 1938. Claimant Rudolph Hohenberg explained that he and his family were forced to flee after Austria's incorporation into the Reich in March 1938 (the "Anschluss"). Claimant Rudolph Hohenberg stated that his family fled to France in September 1938, and then to the United States in 1939. Claimant Rudolph Hohenberg indicated that he was married to [REDACTED], née [REDACTED], on 25 August 1957, and that they now reside in the United States, where he works as an engineer and consultant. Finally, Claimant Rudolph Hohenberg indicated that his family opened an account in Switzerland in his name for purposes of funding his education.

In support of his claim, Claimant Rudolph Hohenberg submitted a copy of his birth certificate, issued in Vienna on 17 July 1938, indicating that Rudolf Hohenberg was born on 27 February 1929 in Vienna, to [REDACTED] and [REDACTED], née [REDACTED]; and a copy of his parents' marriage certificate, indicating that they were married in 1925 and that they resided in Vienna. In addition, Claimant Rudolph Hohenberg submitted a copy of his passport, which indicates that Rudolph Hohenberg was born on 27 February 1929 in Austria.⁵

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal great-uncle, Rudolf Hohenberg. According to Claimant [REDACTED 1], Rudolf Hohenberg, who was Jewish, was the brother of his paternal grandfather, [REDACTED]. Claimant [REDACTED 1] indicated that Rudolf Hohenberg was born in Vienna, that he moved to Berlin, Germany, where he owned a factory, and that he returned to Vienna in the 1930s. Claimant [REDACTED 1] stated that Rudolf Hohenberg was married to [REDACTED], and that they did not have any children. Claimant [REDACTED 1] indicated that Rudolf and [REDACTED] perished in the Holocaust.

Claimant [REDACTED 1] submitted a copy of the birth certificate of his father, [REDACTED], indicating that he was born to [REDACTED] and [REDACTED], née [REDACTED], on 1 June 1927 in Vienna. Claimant [REDACTED 1] indicated that he was born on 5 July 1953 in Oskarshamn, Sweden.

[REDACTED 2]

[REDACTED 2] submitted a Claim Form claiming the account of her paternal grandmother, [REDACTED], née [REDACTED]. The CRT notes that [REDACTED 2] did not identify

⁵ The CRT notes that the documentation submitted by Claimant Rudolph Hohenberg confirms that he spelled his first name as both "Rudolf" and "Rudolph."

Rudolf Hohenberg in her Claim Form. However, the information submitted by both Claimant [REDACTED 1] and [REDACTED 2] establishes that [REDACTED 2] is the sister of Claimant [REDACTED 1], and that Rudolf Hohenberg is therefore also her paternal great-uncle. More specifically, [REDACTED 2] identified her father as [REDACTED], who was born on 1 June 1927 in Vienna, and indicated that he was the son of [REDACTED]. Moreover, [REDACTED2] indicated that [REDACTED] perished at Theresienstadt.

[REDACTED 2] submitted a copy of the birth certificate of [REDACTED], indicating that he was born on 1 June 1927 in Vienna, and the marriage certificate of [REDACTED] and [REDACTED], indicating that [REDACTED] was the son of [REDACTED], and that he was born in Vienna. [REDACTED 2] indicated that she was born on 17 November 1963 in Oskarshamn. [REDACTED 2] is representing her sister, [REDACTED 3], née [REDACTED], who was born on 13 June 1958 in Oskarshamn.

Information Available in the Bank's Record

x

The Bank's record consists of a customer card. According to this record, the Account Owner was Rudolf Hohenberg, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one demand deposit account. The Bank's record indicates that the account was opened on 31 December 1937 and closed on 20 April 1938. 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 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant Rudolph Hohenberg's name and country of residence match the published name and country of residence of the Account Owner. Claimant Rudolph Hohenberg identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. Claimant Rudolph Hohenberg submitted a copy of his birth certificate, indicating that Rudolf Hohenberg was born in Vienna, providing independent verification that the person who is claimed to be the Account Owner by Claimant Rudolph Hohenberg had the same name, city and country of residence recorded in the Bank's record as the name, city and country of residence of the Account Owner. The CRT notes that Claimant Rudolph Hohenberg was a child during the Second World War, but further notes that it is plausible that an adult family member opened the account in his name. Additionally, the CRT

notes that a database containing the names of victims of Nazi persecution includes a person named Rudolf Hohenberg, and indicates that his date of birth was 27 February 1927, which matches the information about the Account Owner provided by Claimant Rudolph Hohenberg. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Claimant [REDACTED 1]'s great-uncle's name and country of residence also match the published name and country of residence of the Account Owner. Claimant [REDACTED 1] identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. As noted above, while [REDACTED 2] did not directly identify the Account Owner, the information she submitted establishes that she is also related to the Account Owner.

The CRT further notes that the name Rudolf Hohenberg appears only once on the February 2001 published list of accounts determined by the Independent Committee of Independent Persons ("ICEP") to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). Finally, the CRT notes that Claimant Rudolph Hohenberg is not the same person as Claimant [REDACTED 1]'s and [REDACTED 2]'s relative. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant Rudolph Hohenberg, Claimant [REDACTED 1] and [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant Rudolph Hohenberg

Claimant Rudolph Hohenberg has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant Rudolph Hohenberg stated that he is Jewish, and that he and his family fled Austria in September 1938 to escape Nazi persecution. As noted above, a person named Rudolf Hohenberg was included in the CRT's database of victims.

Claimant [REDACTED 1] and [REDACTED 2]

Claimant [REDACTED 1] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that his great-uncle was Jewish, that he lived in Vienna, including after returning there from Germany during the 1930s, and that he perished in the Holocaust. In addition, [REDACTED 2] indicated that the Account Owner's brother, [REDACTED], perished at Theresienstadt.

The Claimants' Relationships to the Account Owner

Claimant Rudolph Hohenberg

Claimant Rudolph Hohenberg has plausibly demonstrated that he is the Account Owner by submitting specific information and documents. These documents include a copy of his birth certificate, identifying him as Rudolf Hohenberg.

Claimant [REDACTED 1] and [REDACTED 2]

Claimant [REDACTED 1] has also plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s paternal great-uncle.

The CRT notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that Claimant [REDACTED 1] submitted a copy of his father's birth certificate, indicating that [REDACTED] was born to [REDACTED] and [REDACTED], née [REDACTED], on 1 June 1927 in Vienna, which provides independent verification that Claimant [REDACTED 1]'s relatives bore the same family name as the Account Owner and that they resided in Vienna. 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 [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form. The CRT further notes that [REDACTED 2] also submitted a copy of [REDACTED]'s birth certificate, and that this document and biographical information submitted by both her and Claimant [REDACTED 1] establishes that the Account Owner was also [REDACTED 2]'s great-uncle. There is no information to indicate that the Account Owner identified by Claimant [REDACTED 1] and [REDACTED 2] has surviving heirs, other than the party whom [REDACTED 2] is representing.

The Issue of Who Received the Proceeds

Given that the account was closed on 20 April 1938, when both Claimant Rudolph Hohenberg and his family, as well as Claimant [REDACTED 1] and [REDACTED 2]'s great-uncle were living in Vienna after the *Anschluss*; that there is no record of the payment of the Account Owner's account to him; that, with respect to Claimant Rudolph Hohenberg, the Account Owner, and with respect to Claimant [REDACTED 1] and [REDACTED 2]'s relative, 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 (g), (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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Rudolph Hohenberg has plausibly demonstrated that he is the Account Owner, and Claimant [REDACTED 1] and [REDACTED 2] have plausibly demonstrated that the Account Owner was their paternal great-uncle, and those relationships justify an Award. Third, 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 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 investigation carried out pursuant to the instructions of ICEP, 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.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, all of the Claimants have established a plausible relationship to a person with the same name as the Account Owner. Moreover, Claimant [REDACTED 1] and [REDACTED 2] have identified the same individual as the Account Owner, who is their great-uncle, and [REDACTED 2] is representing her sister, [REDACTED 3], who shares the same familial relationship with the Account Owner. Accordingly, Claimant Rudolph Hohenberg is entitled to one-half of the total award amount, and Claimant [REDACTED 1], [REDACTED 2] and [REDACTED 3] are each entitled to one-sixth 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).

Certification of the Award

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

Claims Resolution Tribunal
12 May 2006