

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Walter Friedrich

in re Accounts of Max Mintz, Malvine Rosenthal, and Malvine Brüll

Claim Number: 501649/BW

Award Amount: 405,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Max Mintz and the published account of Malvine Rosenthal. This award is to the published accounts of Max Mintz (“Account Owner Mintz”) at the [REDACTED] (the “Bank”), and the published accounts of Malvine Rosenthal and Malvine Brüll (“Account Owner Rosenthal”) (together the “Account Owners”) at the Geneva branch of the Bank.¹

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 Account Owner Mintz as her father, Dr. Maximilian (Max) Mintz, who was born on 4 February 1899 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], on 19 December 1926 in Vienna; and Account Owner Rosenthal as her maternal great-grandmother, Malvine Rosenthal, née Brüll, who was born in 1858 in Budapest, and married Emil Rosenthal in Budapest.

The Claimant indicated that her father, who was Jewish, was an attorney with an office at Singerstrasse 27, in Vienna. The Claimant further stated that her family resided at Hörlgasse 6 in Vienna until after the incorporation of Austria into the Reich in March 1938 (the “Anschluss”). The Claimant stated that in May 1938, she and her family fled Austria for the Bronx, New York, the United States, via Zurich, Switzerland. According to the Claimant, her father died in August

¹ 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”), Malvine Rosenthal and Malvine Brüll are each indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records indicate that Malvine Rosenthal and Malvine Brüll are the same person, Malvine Rosenthal, née Brüll, and that she owned two accounts.

1973 in Washington, D.C., the United States, and her mother died in June 1978, also in Washington, D.C. The Claimant indicated that her parents had one other child, her brother, [REDACTED], who was born on 23 February 1929 in Vienna, and who died on 16 November 2004 without issue.

The Claimant indicated that her great-grandmother, a housewife whose husband had died in 1898, lived at Dr. Karl Lueger-Ring 10 in Vienna until after the *Anschluss* in March 1938, when she fled Austria, first to Italy and England, and finally arriving in the United States in 1941. The Claimant indicated that her great-grandmother, who was Jewish, lived in the Bronx until her death in 1962. According to the Claimant, her great-grandmother had three children, including the Claimant's grandmother, [REDACTED], but none survives today.

The Claimant submitted documents in support of her claim, including: (1) a copy of her parents' marriage certificate, indicating that on 19 December 1926 Dr. Maximilian Mintz, who was born on 4 February 1899 in Vienna, was married to [REDACTED], who was born on 19 July 1909 in Vienna; (2) a copy of her birth certificate, indicating that [REDACTED] was born on 28 September 1931 to Dr. Maximilian Mintz and [REDACTED], née [REDACTED]; (3) a certificate from the Civil Registry Office of the Viennese Jewish Cultural Community, which indicates that a daughter, [REDACTED], was born to Malvine Rosenthal, née Brüll, and her husband [REDACTED], in Vienna on 19 January 1880; and (4) a copy of her mother's birth certificate, which indicates that [REDACTED] was born on 19 June 1904 in Vienna, to Dr. [REDACTED] and his wife [REDACTED], née [REDACTED].

The Claimant indicated that she was born on 28 September 1931 in Vienna.

Information Available in the Bank's Records

Account Owner Mintz

The Bank's record consists of a customer card. According to this record, Account Owner Mintz was Dr. Max Mintz, who resided at Singerstr. 27 in Vienna, Austria. The Bank's record indicates that Account Owner Mintz held two demand deposit accounts and one custody account.

The Bank's record indicates that the custody account was closed on 7 October 1938, one demand deposit account was closed on 28 February 1939, and the second demand deposit account was closed on 20 July 1940. The amounts in the accounts on the dates of their closures are unknown. There is no evidence in the Bank's record that Account Owner Mintz or his heirs closed the accounts and received the proceeds themselves.

Account Owner Rosenthal

The Bank's records consist of a customer card and a list of accounts. According to these records, Account Owner Rosenthal was *Mme.* (Mrs.) Malvine Rosenthal, née Brüll, from Vienna. The Bank's records indicate that Account Owner Rosenthal held one custody account, numbered 12239, and one demand deposit account.

The Bank's records indicate that the custody account was closed on 20 December 1938 and that the demand deposit account was opened in October 1935 and closed on 27 February 1939. The amounts in the accounts on the dates of their closures are unknown. There is no evidence in the Bank's record that Account Owner Rosenthal or her heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners as her father and maternal great-grandmother. The Claimant's father's name and country of residence match the published name and country of residence of Account Owner Mintz. The Claimant identified Account Owner Mintz's professional title and business address, which matches unpublished information about Account Owner Mintz contained in the Bank's record. The Claimant's maternal great-grandmother's name, city and country of residence match the published name, city and country of residence of Account Owner Rosenthal. The Claimant identified Account Owner Rosenthal's maiden name, which matches unpublished information about Account Owner Rosenthal contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including (1) a copy of her parents' marriage certificate; (2) a copy of her birth certificate; and (3) a certificate from the Civil Registry Office of the Viennese Jewish Cultural Community, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owners.

The CRT notes that the names Max Mintz, Malvine Brüll, and Malvine Rosenthal each appear 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 notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that both the Account Owners were Jewish, and that both fled Nazi-controlled Austria in 1938.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's father and maternal great-grandmother. These documents include (1) a certificate from the Civil Registry Office of the Viennese Jewish Cultural Community, which indicates that Malvine Rosenthal, née Brüll, had a daughter named [REDACTED]; (2) a copy of her mother's

birth certificate, which indicates that [REDACTED] was the daughter of [REDACTED], née [REDACTED]; and (3) a copy of her birth certificate, indicating that [REDACTED] was born on 28 September 1931 to Dr. Maximilian Mintz and [REDACTED], née [REDACTED].

The Issue of Who Received the Proceeds

The Bank's records indicate that Account Owner Mintz's three accounts were closed on 7 October 1938, 28 February 1939, and 20 July 1940, and that Account Owner Rosenthal's two accounts were closed on 20 December 1938 and 27 February 1939.

The CRT notes that, according to information provided by the Claimant, the Account Owners were outside Nazi-dominated territory when the accounts were closed. However, given that the Bank's records do not indicate to whom the accounts were closed, that the Account Owners fled their country of origin due to Nazi persecution; that the Account Owners may have had relatives remaining in their country of origin and that they may therefore have yielded to Nazi pressure to turn over their accounts to ensure their safety; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 the Account Owners were her father and maternal great-grandmother, and those relationships justify an Award. Third, 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, Account Owner Mintz held two demand deposit accounts, and one custody account, and Account Owner Rosenthal held one demand deposit account, and one custody 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 the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"), and the average value of a custody account was SF 13,000.00. Thus, the total

1945 average value of three demand deposit accounts and two custody accounts is SF 32,420.00. 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 405,250.00.

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
31 December 2005