

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of [REDACTED]¹

in re Account of *Stiftung zu Gunsten der Familienangehörigen des Sigmund Popper*

Claim Number: 204200/MI

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Siegmund Popper. This Award is to the account belonging to the *Stiftung zu Gunsten der Familienangehörigen des Sigmund Popper* (foundation for the benefit of the family of Sigmund Popper, or Sigmund Popper endowment) (the “Account Owner” or the “Endowment”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 founder of the Account Owner as his paternal great-uncle, Sigmund Popper, who was born on 24 January 1860 in Czechoslovakia, and was married to [REDACTED] in Vienna, Austria. The Claimant indicated that his relative, who was Jewish, owned a bank called *Rosenfeld und Company* in Vienna, where he lived from 1884 to 1938 at Rathausstrasse 20. The Claimant further indicated that his great-uncle fled Vienna with his wife following the incorporation of Austria into the Reich in March 1938 (the “Anschluss”), and sought refuge in Chur, Switzerland, where they stayed at the *Hotel Steinbock*. The Claimant indicated that his relatives did not have any children of their own and were very generous toward the rest of their family. The Claimant stated that he and his wife, who also lived in Austria, were deported to Bergen-Belsen, where they spent a portion of the Second

¹ The CRT notes that Claimant [REDACTED] passed away on 3 May 2002.

² 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”), the account owner is erroneously published as Siegmund Popper. Upon careful review, the CRT has concluded that the Bank’s records evidence the account owner to be the foundation *Stiftung zu Gunsten der Familienangehörigen des Sigmund Popper*.

World War. The Claimant further indicated that his great-uncle died in 1943 in Chur, where his wife also died sometime thereafter.

In correspondence with the CRT, the Claimant's son, [REDACTED], indicated that the Claimant passed away on 3 May 2002.

The Claimant submitted copies of documents in support of his claim, including: (1) his great-uncle's death certificate, indicating that Sigmund Popper died on 14 October 1943 in Chur, and identifying his parents as [REDACTED] and [REDACTED]; (2) his grandparents' marriage certificate, indicating that [REDACTED] and [REDACTED] were married, and identifying [REDACTED]'s father as [REDACTED]; (3) his father's birth certificate, indicating that [REDACTED]'s surname is alternatively listed as "[REDACTED]," and identifying his parents as [REDACTED] and [REDACTED]; and (4) the Claimant's own birth certificate, indicating that [REDACTED] was born on 29 September 1912 in Budapest, Hungary and identifying his parents as [REDACTED] and [REDACTED]. In addition, the Claimant's son submitted to the CRT his father's death certificate, indicating that [REDACTED] died on 3 May 2002, identifying his parents as [REDACTED] and [REDACTED], and identifying his wife as [REDACTED].

The Claimant indicated that he was born on 29 September 1912 in Budapest, Hungary.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by Sigmund and Bertha Popper.

Information Available in the Bank's Records

The Bank's record consists of a printout from the Bank's database of custody accounts. According to this record, the Account Owner was a foundation called *Stiftung z. G. Familienangehör. v. Sigmund Popper* (foundation for the benefit of the family of Sigmund Popper), which was registered in Vienna, Austria.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of a list of numbered custody accounts from 24 December 1938 and a list of closed custody accounts as of 31 December 1941, and indicate that the Account Owner was the *Stiftung zu Gunsten der Familienangehörigen des Sigmund Popper* (foundation for the benefit of the family of Sigmund Popper), registered in Vienna.

The Bank's records indicate that the Account Owner held a custody account, numbered 21848. The Bank's records further indicate that the account was opened in Zurich, Switzerland on 24 December 1938 and closed on 11 April 1940. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Endowment or its beneficiaries or successors in interest closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Sigmund Popper, numbered 26344.³ These records indicate that Sigmund Popper was born on 24 January 1860 in Czechoslovakia and lived at Rathausstrasse 20 in Vienna. These records report many holdings of *Rosenfeld und Company*. These records make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s paternal great-uncle’s name and country of residence match the published name and country of residence of the founder of the Endowment. The Claimant identified the founder of the Endowment’s city of residence until 1938 as Vienna, and the correct spelling of the founder of the Endowment’s first name, which matches unpublished information about the Endowment contained in the Bank’s records. Furthermore, the Claimant indicated that the founder of the Endowment fled Austria in 1938, which is consistent with the fact that a power of attorney executed his 1938 Census forms in his stead.

In support of his claim, the Claimant submitted documents, including a copy of his relative’s death certificate, providing independent verification that the person who is claimed to be the founder of the Endowment had the same name recorded in the Bank’s records as the name of the founder of the Endowment.

The CRT notes that the name Siegmund Popper appears only once on the February 2001 published list of accounts determined by the investigation carried out pursuant to the 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 “ICEP List”). The CRT further notes that the Claimant filed an ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by Sigmund and Bertha Popper, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city of residence than the city of residence of the founder of the Endowment.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the founder of the Endowment was a Victim of Nazi Persecution. The Claimant stated that the founder of the Endowment was Jewish, living in Nazi-controlled Austria, and that he fled from his home in Vienna following the *Anschluss*.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the founder of the Endowment by submitting specific information and documents, demonstrating that the founder of the Endowment was the Claimant's great-uncle. These documents include his relative's death certificate, identifying Sigmund Popper's father as [REDACTED]; his grandparents' marriage certificate, identifying [REDACTED]'s father as [REDACTED]; his father's birth certificate, identifying [REDACTED]'s mother as [REDACTED]; and his own birth certificate, identifying [REDACTED]'s father as [REDACTED]. There is no information to indicate that the founder of the Endowment has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the account was opened on 24 December 1938 and closed on 11 April 1940, and that, during this time, according to information provided by the Claimant, the founder of the Endowment was outside Nazi-dominated territory and resided in Switzerland. The CRT notes, however, that the Claimant indicated that his great-uncle and his wife had no children of their own and were very generous toward the rest of the family, and that the Claimant and his wife remained in Austria and were deported to Bergen-Belsen. The CRT notes further that establishing the account at that time specifically for the benefit of the family of Sigmund Popper suggests, together with the date of closure, that the account's purpose was to help ensure the safety of Sigmund Popper's family members, including the Claimant and his wife, who remained under Nazi control, and that its existence was known to the Nazi regime.

Given that the Bank's records do not indicate to whom the account was closed, that the founder of the Endowment fled his country of origin due to Nazi persecution, that the founder of the Endowment had relatives remaining in his country of origin, including the Claimant and his wife, and that he may therefore have yielded to Nazi pressure to turn over the Endowment's assets to ensure their safety, that the Endowment's beneficiaries and its successions in interest would not have been able to obtain information about the account 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 was opened for the purpose of transferring funds to secure the release of family members from the Third Reich, and that the account proceeds were not paid to the founder of the Endowment or its beneficiaries or successions in interest. 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 founder of the Endowment was his paternal great-uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the founder of the Endowment nor its beneficiaries nor its successors in interest received the proceeds of the claimed account.

Amount of the Award

In this case, the Endowment held 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 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 162,500.00.

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
12 October 2007