

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3], [REDACTED 4], [REDACTED 5],
[REDACTED 6], [REDACTED 7], [REDACTED 8],
and [REDACTED 9]

in re Account of Samuel Rabinow

Claim Numbers: 223054/GO, 400951/GO, 705288/GO,² 754077/GO³

Award Amount: 39,893.75 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”) to the published account of Samuel Rabinow (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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

¹ The CRT notes that [REDACTED 1] (“Claimant [REDACTED 1]”) died on 26 September 1997. On 21 June 2006, [REDACTED 2] (“Claimant [REDACTED 2]”) provided the CRT with Claimant [REDACTED 1]’s inheritance documents, indicating that his heirs were his children, represented parties [REDACTED 4], [REDACTED 5], and [REDACTED 6].

² In 1999, Claimant [REDACTED 2] submitted an Initial Questionnaire (“IQ”), numbered ENG-0635136, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 705288.

³ In 1997, Claimant [REDACTED 1] submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-TLV-D-71-201-181-225, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 754077.

Information Provided by the Claimants

Claimant [REDACTED 2] submitted an Initial Questionnaire (“IQ”) and two Claim Forms, and Claimant [REDACTED 1], who is Claimant [REDACTED 2]’s paternal uncle, submitted an ATAG Ernst & Young claim form, providing substantially similar information. The Claimants identified the Account Owner as Claimant [REDACTED 1]’s cousin and Claimant [REDACTED 2]’s second cousin, Samuel (Shmuel, Mulik) Rabinow (Rabinov), who was born in 1907 in Pinsk, Poland. The Claimants indicated that their cousin, who was Jewish, resided at Pomorska Street 8 in Lodz, Poland, and studied engineering in Belgium and France. The Claimants further indicated that their cousin was an agent for a Swiss company producing silk nets for flour mills, and that he was a representative of the PEDEG-ARDAL factory for the entire district of Lodz. Claimant [REDACTED 1] indicated that his cousin married in 1939. Claimant [REDACTED 2] stated that Samuel Rabinov lived in Lodz until 1941, and that he had businesses with the Bank in Zurich, Switzerland.

In a telephone conversation with the CRT on 5 April 2006, Claimant [REDACTED 2] stated that Samuel Rabinow had three cousins: [REDACTED], [REDACTED] (Claimant [REDACTED 2]’s father) and Claimant [REDACTED 1]. The Claimants further stated that they were not sure of the exact fate of Samuel Rabinow during the Second World War, but that their cousin is believed to have perished either in the Warsaw Ghetto, the Lodz Ghetto, or in Auschwitz.

Claimant [REDACTED 2] also submitted a decision from a District Court in Tel Aviv, Israel, from 5 February 1998 pertaining to [REDACTED 1]’s will, which divides his estate in equal shares to his children: [REDACTED 4], née [REDACTED], [REDACTED 6] and [REDACTED 5].

Claimant [REDACTED 1] indicated that he was born on 1916. Claimant [REDACTED 2] indicated that he was born on 6 March 1942 in Israel. Claimant [REDACTED 2] is representing his sister, [REDACTED 3], who was born in Israel. Claimant [REDACTED 2] is also representing his cousins (the children of [REDACTED]), [REDACTED 7], [REDACTED 8], and [REDACTED 9], who were born in August 1946, on 6 March 1943, and in 1941, respectively, all in Israel. He is also representing his other cousins (the children of Claimant [REDACTED 1]), [REDACTED 6] and [REDACTED 5], who were born on 28 August 1946 and 28 September 1948, respectively, both in Israel, and [REDACTED 4], née [REDACTED].

Information Available in the Bank’s Records

The CRT notes that 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”) did not report an account belonging to Samuel Rabinow during their investigation of the Bank. The existence of an account at the Bank is evidenced by documents from the Swiss Federal Archive in Bern, Switzerland, and the Press Office of the Polish Ministry of Finance, which are further described below.

Information Available from the Swiss Federal Archive

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”).

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Samuel Rabinow, numbered 181. According to these records, the Account Owner was Samuel Rabinow, who was an *Ingenieur* (engineer), and whose last known contact with the Bank occurred before the end of the Second World War.

In addition, these records identify two contact persons for the account, *Mme.* (Mrs.) S. Finkelstein and *Ing.* (Engineer) J. Finkelstein, who resided at Avenue de la Porte de la Plaine in Paris 15E, France. The records include a letter from Mme. Finkelstein, dated 15 February 1964, which indicates that Samuel Rabinow was from Lodz, Poland, and was believed to have perished in the Warsaw Ghetto in 1942 or 1943. These records also contain letters pertaining to inquiries from Samuel Rabinow’s cousins: [REDACTED], who resided at Bd. Gouvion-St. Cyr 40 in Paris 17E, and *Herrn* (Mr.) [REDACTED], who resided in Tel Aviv, Israel.

These records indicate that the Account Owner held a demand deposit account, and that as of 27 February 1964, the amount in the demand deposit account was 2,906.50 Swiss Francs (“SF”). The records do not indicate the ultimate disposition of the account. There is no evidence in these records that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Published by the Press Office of the Polish Ministry of Finance

In a publication entitled *Nasze Finanse*, published by the Press Office of the Polish Ministry of Finance, number 25, dated 1998, there is information concerning the assets of Samuel Rabinow. According to these records, the Account Owner was *Ing.* Samuel Rabinow, who perished in 1942 or 1943 in the Warsaw Ghetto, Poland. In addition, this publication identifies S. and J. Finkelstein as contact persons for the account and indicates that two cousins of the account owner, [REDACTED] and [REDACTED], made inquiries about the account.

These records indicate that the Account Owner held a demand deposit account, and that as of 15 August 1975, the amount in the demand deposit account was SF 2,906.50. These records further indicate that the proceeds of the account were transferred on 15 August 1975 to the Polish National Bank.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their cousin's name matches the published name of the Account Owner. The Claimants identified the Account Owner's city of residence and his professional title, which matches published information contained in the records of the Swiss Federal Archive and Polish Ministry of Finance. Furthermore, the Claimants stated that [REDACTED], of Tel Aviv, Israel, was a cousin of the Account Owner, which matches the information about Account Owner's cousin contained in the records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Samuel Rabinow, and indicates that his place of residence was Lodz, Poland which 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 further notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999 and Claimant [REDACTED 1] filed an ATAG Ernst & Young claim form in 1997, asserting their entitlement to a Swiss bank account owned by Samuel Rabinow, prior to the publication of the List of Account Owners published in 2005 (the "2005 List"). This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the 2005 List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the 2005 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 country of residence and date of death than the country of residence and date of death of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and that he is believed to perished either in the Warsaw Ghetto, the Lodz Ghetto, or in Auschwitz. Furthermore, the records of the Swiss Federal Archive and Polish Ministry of Finance also indicate that the Account Owner perished in the Warsaw Ghetto in 1942 or 1943. As noted above, a person named Samuel Rabinow was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimants' cousin. The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the records of the Polish Ministry of Finance; that the Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999 and Claimant [REDACTED 1] filed an ATAG Ernst & Young claim form in 1997, identifying the relationship between the Account Owner and the Claimants, prior to the publication in January 2005 of the 2005 List; and that the Claimants also identified information which matches information contained in the Yad Vashem records. 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs other than the parties represented.

The Issue of Who Received the Proceeds

The records of the Press Office of the Polish Ministry of Finance indicate that the account was paid to the Polish National Bank on 15 August 1975.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants and the represented parties. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners was their cousin, and that relationship justifies an Award. Third, the CRT has determined 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. The records of the Press Office of the Polish Ministry of Finance indicate that the value of the demand deposit account as of 2 December 1963 was SF 2,906.50. 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 demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 3,191.50. 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 39,893.75.

Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor

of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimant [REDACTED 2] is representing his sister [REDACTED 3] and his cousins [REDACTED 4], [REDACTED 5], [REDACTED 6] (the children of Claimant [REDACTED 1]) and his cousins [REDACTED 7], [REDACTED 8], [REDACTED 9] (the children of [REDACTED]), who are descendants of the Account Owner's grandparents. As indicated above, [REDACTED 4], [REDACTED 5], [REDACTED 6] as the children of Claimant [REDACTED 1], are entitled to his estate in equal shares by representation, as set forth in the District Court decision submitted by Claimant [REDACTED 2].

Accordingly, Claimant [REDACTED 2] and [REDACTED 3], as children of the Account Owner's cousin [REDACTED], are each entitled to one-sixth of the total award amount, or SF 6,648.95 each (due to rounding, either Claimant [REDACTED 2] or his sister is to receive an additional SF 0.01, for a total of SF 6,648.96). [REDACTED 4], [REDACTED 5], and [REDACTED 6], as children of the Account Owner's cousin [REDACTED 1], are entitled to one-ninth of the total award amount, or SF 4,432.64 each.⁴ [REDACTED 7], [REDACTED 8], and [REDACTED 9], as children of the Account Owner's cousin [REDACTED], are also entitled to one-ninth of the total award amount, or SF 4,432.64 each.

The division of the Award amount is summarized in the table below.

Party	Share	Amount
Claimant [REDACTED 2]	1/6	6,648.95
[REDACTED 3]	1/6	6,648.96
[REDACTED 4]	1/9	4,432.64
[REDACTED 5]	1/9	4,432.64
[REDACTED 6]	1/9	4,432.64
[REDACTED 7]	1/9	4,432.64
[REDACTED 8]	1/9	4,432.64
[REDACTED 9]	1/9	4,432.64
TOTAL	1/1	39,893.75

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).

⁴ In this case, the CRT was provided with a copy of a court decision that specifies that Claimant [REDACTED 1]'s children were his sole heirs. To simplify the estate process, the CRT has divided the portion of the Award amount that Claimant [REDACTED 1] would have received amount his three children, in equal shares.

Certification of the Award

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

Claims Resolution Tribunal
27 February 2007