

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jeanet Maduro de Polanco
also acting on behalf of Katarina van Heel

in re Accounts of Siegfried Rebner

Claim Number: 501767/MBC

Award Amount: 1,167,250.00 Swiss Francs

This Certified Award is based upon the claim of Jeanet Maduro de Polanco, née van Heel, (the “Claimant”) to the published accounts of Siegfried Rebner (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her mother’s cousin, Siegfried Rebner, who was born on 13 October 1878 in Vienna, Austria, and was married to Ada Rebner, née Weinfeld, in Vienna. The Claimant explained that Siegfried Rebner’s father was Jakob Selig Rebner, who was the brother of the Claimant’s mother’s great-grandfather, Salomon Rebner.

According to the information provided by the Claimant, Siegfried Rebner’s father was Jakob Selig Rebner, who was the brother of Salomon Rebner. Salomon married Rozalin Stiglitz, and their son was Arthur Rebner, who married Johanna Möller. Arthur and Johanna’s daughter Eva married Juan van Heel and their child was Katarina van Heel, the Claimant’s mother.

The Claimant stated that Siegfried Rebner, who was Jewish, was a bank officer, and that he and his wife did not have any children. The Claimant explained that after the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”), Ada Rebner committed suicide on 31 October 1938 in Vienna, and that Siegfried Rebner was deported to the Maly Trostinec concentration camp near Minsk, Belarus, where he perished on 15 June 1942.

The Claimant submitted copies of documents, including: (1) documents concerning the assets of deported Jews issued by the *Oberfinanzpräsident Wien-Niederdonau* on 5 March 1943, indicating that Siegfried Rebner was deported and his assets were transferred to Berlin,

Germany; (2) documents concerning the assets of Adolf Rebner, indicating that Adolf Rebner's brother, Siegfried Rebner, administered his assets in Vienna; (3) a property purchase agreement, between Adolf Rebner and Marie Kadzik issued on 20 June 1939, indicating that Adolf Rebner gave power of attorney to his brother, Siegfried Rebner, who was a retired bank officer; (4) the Claimant's great-grandparents' marriage certificate, indicating that Arthur Rebner's parents were Salomon and Rozalin Rebner, née Stiglitz; (5) her grandmother's birth certificate, issued by the Jewish Community of Vienna, indicating that Eva Rebner was born on 16 August 1918 in Vienna, and that her parents were Arthur and Johanna Rebner, née Möller; and (6) her grandmother's marriage certificate, indicating that Eva Rebner was married to Juan van Heel on 16 October 1944. The Claimant also submitted copies of documents from the Austrian State Archive, which are described in detail below.

The Claimant indicated that she was born on 6 February 1967 in Caracas, Venezuela. The Claimant is representing her mother, Katarina van Heel, née Rebner.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a report from 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"). According to these records, the Account Owner was Siegfried Rebner, who resided in Vienna, Austria. The Bank's records indicate that the Account Owner held three accounts: one custody account, numbered 58760, one demand deposit account, and one safe deposit box, numbered 428. These records indicate that the safe deposit box was closed on 25 June 1938, that the demand deposit account was closed on 10 July 1938, and that the custody account was closed on 19 July 1938.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of a custody account identification card (*Leitkarten*) and two related custody account valuation cards (*Depotvalorenkarten*), and indicate that the Account Owner held the following securities in custody account 58760:

- *3-1/2% Schweizer Bundesbahnen von 1899/1902 Serie A/K* bonds with a nominal value of 90,000.00 Swiss Francs ("SF") on 23 March 1938, when they were converted into
- *3% Schweizerische Bundesbahnen von 1938* bonds, which were sold on 14 July 1938 for SF 90,000.00.

The amounts in the demand deposit account and the safe deposit box on the date of their closure are unknown. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts 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 Siegfried Rebner, numbered 42393.

These records include the asset declaration of Siegfried Rebner, signed by him on 15 July 1938 in Vienna, notices of tax assessments, and correspondence between Siegfried Rebner and the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*, “VVSt.”) in Vienna and between the VVSt. and the Finance Office (*Finanzamt*) in Neubau.

According to the asset declaration, Siegfried Rebner was born on 13 October 1878, lived at Zieglergasse 98 in Vienna, Austria, and was married to Ada Rebner, née Weinfeld. The declaration states that in 1938 Siegfried Rebner worked as a representative for a company called *Celluloid Speyer*, located at Diefenbachgasse 3, Vienna, and that he was retired from the *Credit-Wiener Bankverein* in Vienna.

In his asset declaration, Siegfried Rebner indicated that he owned 3-1/2% *Schweizer Bundesbahn Obligation Serie A-K* bonds, which traded at 100 percent and which he indicated as being equivalent to 51,471.00 Reichsmark (“RM”).¹ According to an annotation in the declaration written by Siegfried Rebner, these bonds were transferred to the *Reichsbankdirektion Berlin* and were converted into 3% *Schweizer Bundesbahn Anleihen 1938* bonds. In a letter dated 27 July 1938 contained in his file, Siegfried Rebner informed the VVSt. in Vienna that on 21 July 1938 the *Reichsbankdirektion Berlin* had paid him 20 percent of the value of the bonds, or RM 10,451.00, that they had sold on 15 July 1938, and that his assets were that much higher than he was able to estimate at the time he filed his original declaration.

These records also include a security order (*Sicherheitsbescheid*) and a notice of flight tax (*Reichsfluchtsteuerbescheid*), dated 31 July 1939 and 20 March 1941, respectively. According to the notice of flight tax, Siegfried Rebner was assessed flight tax in the amount of RM 19,142.00 based on total assets of RM 95,819.00 as of 1 January 1938.

Siegfried Rebner’s file also contains three letters, dated 14 December 1938, 24 December 1938, and 27 January 1939, from Siegfried Rebner to the VVSt. in Vienna regarding his atonement tax (*Sühneabgabe*). In these letters, Siegfried Rebner stated that his assets had been diminished because of he had been required to pay higher taxes, including higher personal income and capital gains taxes, among others, living expenses, and payments to the finance office Neubau, and therefore sought to reduce his atonement tax to RM 3,800.00 based on total assets of RM 76.000,00.

¹ The CRT uses official exchange rates when making currency conversions.

These records make no mention of assets held in Swiss bank accounts. The records do not contain information about the ultimate disposition of Siegfried Rebner's Swiss securities or where they were located.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant identified the Account Owner's name and country of residence, which match published information about the Account Owner contained in the Bank's records. The Claimant further identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records. In support of her claim, the Claimant submitted documents, including information provided by the Jewish Community of Vienna and a document concerning the assets of Siegfried Rebner, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town as recorded in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Siegfried Rebner, and indicates that he was born in Vienna in 1878, 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. Additional records obtained from the Documentation Centre for Austrian Resistance in Vienna indicate further that Siegfried Rebner was deported to the concentration camp Maly Trostinec on 9 June 1942, where he perished on 15 June 1942.

The CRT notes that there are no other claims to these accounts.

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, who was Jewish, resided in Austria after the *Anschluss*. The Claimant further stated that the Account Owner was interned in the Maly Trostenic concentration camp, where he perished. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census. As noted above, a person named Siegfried Rebner was included in the CRT's database of victims.

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, demonstrating that the Account Owner was the Claimant's mother's cousin. There is no information to indicate that the Account Owner has other surviving heirs other than the party whom the Claimant is representing.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records, that the Claimant also identified information which matches information contained in the Yad Vashem records. Additionally, the Claimant submitted a copy of her great-great-grandparents' marriage certificate and her grandmother's birth certificate. The CRT notes that it is plausible that this document is a document, which most likely only a family member would possess, providing independent verification that the Claimant'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 as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the accounts were closed on 25 June, 10 July, and 19 July 1938.

The Account Owner's 1938 Census records show that the bonds in the custody account were transferred to the *Reichsbankdirektion Berlin*, sold, and that 20 percent, or RM 10,451.00, was paid to him. However, at that time it was the *Reichsbankdirektion Berlin*'s general practice to transfer the assets of Jews to blocked accounts. Additionally, according to the document from the *Oberfinanzpräsident Wien-Niederdonau* provided by the Claimant, the Account Owner's assets were confiscated by the Nazi regime and transferred to banks in the Reich by the time he was deported to Maly Trostenic, if not before. Therefore, given that the Account Owner lost control of his assets and could not have repatriated his accounts without losing control over the proceeds; that the Account Owner remained in Austria until his deportation and ultimate death; and given that his heirs would not have been able to obtain information about his accounts 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 (a), (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 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 fourth cousin, and that relationship justifies 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 accounts.

Further the CRT notes that the Claimant's mother, represented party Katarina van Heel, is one generation closer to the Account Owner than the Claimant, and therefore has a better entitlement to the accounts than the Claimant.

Amount of the Award

In this case, the Account Owner held one custody account, one demand deposit account and one safe deposit box.

Pursuant to Article 29 of the Rules, when the value of accounts are unknown, as is the case for the demand deposit account and safe deposit box, the average value of the same or a similar type of accounts 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 SF 2,140.00 and the average value of a safe deposit box was SF 1,240.00, for a combined average value of SF 3,380.00. 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 an award amount of SF 42,250.00 for these two accounts.

As for the custody account, the Bank's records and the Account Owner's 1938 Census declaration indicate that the account contained *3-1/2% Schweizer Bundesbahnen von 1899/1902 Serie A/K* bonds with a nominal value of SF 90,000.00, which were converted into *3% Schweizerische Bundesbahnen von 1938* bonds, which were sold on 14 July 1938 for SF 90,000.00.

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. The market value of bonds shall be awarded if that value was above the nominal value on the date the account owner is deemed to have lost control over the account.

The CRT notes that the *3-1/2% Schweizer Bundesbahnen von 1899/1902 Serie A/K* bonds traded at 100 percent and that the *3% Schweizerische Bundesbahnen von 1938* bonds traded at 97.90 percent.² Both series were in good standing. The bonds are thus valued at their nominal value (which is equal to the market value of the *3-1/2% Schweizer Bundesbahnen von 1899/1902 Serie A/K* bonds), or SF 90,000.00. 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 an award amount of SF 1,125,000.00 for this account.

Accordingly, the total award amount for all three accounts is SF 1,167,250.00

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her mother, Katarina van Heel, who is

² When available, the CRT uses the market values of securities traded in Switzerland. In this case, the market value for this security are from the 29 December 1938 issue of the *Kursblatt der Zürcher Effektenbörse*.

the great-great-granddaughter of the Account Owner's parents and one generation closer to the Account Owner than the Claimant, who is the great-great-great-granddaughter of the Account Owner's parents. Therefore, Katarina van Heel is entitled to the entire award amount. As noted above, the Claimant is not entitled to share in the award amount.

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 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
24 October 2008