

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Accounts of Walter Rosenbaum

Claim Number: 401361/AZ

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Walter Rosenbaum (the “Account Owner”) at the [REDACTED] (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 the Account Owner as her father-in-law, Dr. Walter Rosenbaum, who was born on 18 December 1889 in Szczakowa, Poland, and was married to [REDACTED], née [REDACTED], on 10 September 1922 in Vienna, Austria. The Claimant stated that her father-in-law was a lawyer in Vienna; that he had one child, [REDACTED], the Claimant’s late husband, who was born in Vienna on 24 February 1925; and that his family resided at Deutschmeisterplatz in Vienna until 1938. According to the Claimant, her father-in-law and his family, who were Jewish, were refugees in Holland during the Second World War, and returned to Vienna in 1946. The Claimant indicated that her father-in-law died in Vienna on 24 July 1953, and that his wife died on 1 June 1973. Finally, the Claimant indicated that her husband, [REDACTED], changed his name from Rosenbaum to [REDACTED] in 1956, and that he died on 28 November 2002 in Vienna.

The Claimant submitted documents in support of her claim, including: 1) her parents-in-law’s marriage certificate, indicating that Dr. Walter Rosenbaum was born on 18 December 1889, that he was a lawyer in Vienna, and that he was married to [REDACTED]; 2) her father-in-law’s death certificate, dated in Vienna on 27 July 1953, which indicates that her father-in-law was

¹ In her Claim Form, the Claimant also claimed the accounts of Max Rosenbaum. The CRT will treat the claim to these accounts in a separate determination.

born in Szczakowa and that his last address was at Laudongasse 12 in Vienna;² 3) her marriage certificate, dated in Vienna on 24 April 1957, indicating that her husband was [REDACTED], that he lived at Laudongasse 12, that his parents were Dr. Walter Rosenbaum, a lawyer, and [REDACTED], née [REDACTED], and that he changed his surname to [REDACTED] on 23 June 1956; 4) her mother-in-law's death certificate, dated 13 June 1973, which indicates that her mother-in-law's last address was at Laudongasse 12 in Vienna; 5) the death certificate of her husband, [REDACTED], dated 28 November 2002, indicating that he was married to the Claimant and that his last address was also at Laudongasse 12; and 6) the order of a probate court, declaring the Claimant entitled to the entire estate of her deceased husband, [REDACTED]. The Claimant indicated that she was born on 24 April 1927 in Edelstal, Austria.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Walter Rosenbaum, a lawyer, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a custody account, numbered L35479, and a demand deposit account, which were closed on 22 March 1939 and 31 March 1939, respectively. The Bank's record does not indicate the value of these accounts. There is no evidence in the Bank's record 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 Dr. Walter Rosenbaum, numbered 34455. These documents include Walter Rosenbaum's 1938 Census declaration, various amendments, and official correspondence. According to his 1938 Census declaration, Walter Rosenbaum was born on 18 December 1889, was married to [REDACTED], lived at Deutschmeisterplatz 2 in Vienna, and was an attorney. In these documents, Walter Rosenbaum indicated that he and his wife were Protestant, and that his wife was not Jewish.

The correspondence file indicates that, for the purposes of calculating the flight tax assessment (*Reichsfluchtsteuer*), the tax authorities initially valued the assets of Walter Rosenbaum and his wife as of the beginning of 1938 at 67,316.00 Reichsmark ("RM"), but on 3 February 1939 assessed flight tax of RM 14,382.00 on a base of RM 57,531.00. This assessment was amended to RM 11,762.00 on 9 March 1939 to take account of an assessment of RM 10,400.00 for atonement tax (*Judenvermögensabgabe*). The file further includes an amendment to Walter

² The CRT notes that Walter Rosenbaum's marriage and death certificates indicate that he was Protestant, but that they also indicate that his birth was recorded in a registry of Jewish births. Moreover, as further addressed below, Walter Rosenbaum was required to register his assets in 1938, demonstrating that the Nazi regime considered him to be Jewish under its Nuremberg racial laws.

Rosenbaum's asset declaration, dated 13 November 1938, in which he declared that his foreign currency denominated securities were sold by the *Creditanstalt Bankverein*, as required by an order of 8 August 1938, and the proceeds held in his account at that bank and a subsequent amendment, dated 3 January 1939, which indicates that his emigration was being organized under the auspices of the *Gildemeester* action and that part of his securities had been placed in a blocked account. Finally, the file contains a letter from Nazi authorities to Dr. Rosenbaum at a hotel in Holland, dated 9 May 1939, ordering him to offer his remaining foreign currency, which consisted of ten shares of *Tarbouches Trust AG*, to the Vienna branch of the *Reichsbank* and to sell them if so directed. 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 father-in-law's name matches the published name of the Account Owner. The Claimant identified the Account Owner's title, profession, and city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including her father-in-law's marriage certificate, indicating that Dr. Walter Rosenbaum was a lawyer in Vienna, providing independent verification that the person who is claimed to be the Account Owner had the same name, title, and profession, and lived in the same city recorded in the Bank's record as the name, title, profession, and city of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence and profession than the country of residence and profession of the Account Owner, or because the date of birth of the person claimed to be the Account Owner is not consistent with the Account Owner's title and profession as denoted in the Bank's record.

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 was Jewish, and that, in 1938, he fled Austria for Holland, where he was a refugee during the Second World War. Furthermore, the CRT notes that the Account Owner was required to submit a 1938 Census declaration registering his assets and to pay flight and atonement tax.

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 and documents, demonstrating that the Account Owner was the Claimant's father-in-law. These documents include her marriage certificate, indicating that her late husband was [REDACTED], that his parents were Dr. Walter Rosenbaum, a lawyer, and [REDACTED], née [REDACTED], and that her husband changed his surname to [REDACTED] in 1956. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the accounts were closed in late March of 1939, after Austria's incorporation into the Reich in March 1938 (the *Anschluss*), and after the Account Owner fled Austria for Holland. Accordingly, the Account Owner was outside Nazi-dominated territory at the time the accounts were closed. However, given that the Bank's record does not indicate to whom the accounts were closed, that the Account Owner fled his country of origin due to Nazi persecution, that his 1938 Census file demonstrate that the Account Owner was required to register his assets to Nazi authorities, and that these authorities were aware of his address in Holland; that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his 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 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 father-in-law, 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.

Amount of the Award

In this case, the Account Owner 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 the accounts at issue is SF 15,140.00. 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 189,250.00.

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
12 May 2006