

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Account of Bernhard Rosenberg

Claim Numbers: 202854/MBC; 216834/MBC; 784362/MBC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together “the Claimants”) to the published account of Bernhard Rosenberg (the “Account Owner”) at the Wiedikon 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

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire to the Court in 1999 and a Claim Form to the CRT identifying the Account Owner as his maternal grandfather, Bernard Rosenberg, who was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that his grandfather, who was Jewish, had two daughters, [REDACTED] and

¹ In 1999 [REDACTED 1] (“Claimant Redacted 1”) submitted an Initial Questionnaire (“IQ”), numbered ENG-0564-021, 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 784362.

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 name Bernhard Rosenberg appears twice. Upon careful review, the CRT has determined that the second Bernhard Rosenberg is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

[REDACTED], that he resided in Vilauçi (Vilacheia), Romania, where he owned a farm, and that he traveled frequently to Zurich, Switzerland, in order to deposit money. Claimant [REDACTED 1] explained that his grandparents were killed by the Nazis at their house in 1941, and that he himself was deported in 1941 to the ghetto in Bersad, Ukraine, where he remained until he was freed by the Russian army in 1945.

Claimant [REDACTED 1] indicated that he was born on 23 June 1930 in Bucharest, Romania.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father, Bernhard Rosenberg, who was born on 2 February 1885 in Neudenau, Germany, and was married to [REDACTED] on 27 November 1914, and with whom he had two children: Claimant [REDACTED 2] and her brother, [REDACTED]. Claimant [REDACTED 2] stated that her father, who was Jewish, was a merchant and owned a business named *J. Pappenheim* in Eschwege, Germany, where he resided until 1939. Claimant [REDACTED 2] explained that her father's business was destroyed during the Night of Broken Glass pogrom (*Kristallnacht*) and that her family left Eschwege and found shelter with relatives in Cologne, Germany, before fleeing to the United States in March 1939. Claimant [REDACTED 2] indicated that her father died on 28 March 1972 in New York, New York.

In support of her claim, Claimant [REDACTED 2] submitted copies of: (1) her parents' marriage certificate, indicating that Bernhard Rosenberg and [REDACTED] were married on 27 November 1914 in Neudenau; (2) her own birth certificate, indicating that her parents were Bernhard and [REDACTED] Rosenberg, that they resided in Eschwege, and that she was born on 2 November 1927; and (3) her own German passport issued in 1939 at Eschwege with the letter "J" (for Jewish) printed on it.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire to the Court in 1999 asserting her entitlement to a Swiss bank account owned by Tirza Freeman.³

Claimant [REDACTED 2] indicated that she was born on 2 November 1927 in Eschwege.

Information Available in the Bank's Records

The Bank's records consist of 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 Bernhard Rosenberg. The Bank's records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held one account, the type of which is not indicated.

³ The CRT did not locate an account belonging to Tirza Freeman in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the "Rules").

The Bank's records further indicate that the account was transferred to the Bank's suspense account on an unknown date. The amount in the account on the date of its transfer is unknown. The records do show, however, that the balance in the account on 13 May 1980 was 8.15 Swiss Francs ("SF"). The account remains suspended today.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s grandfather's name and Claimant [REDACTED 2]'s father's name match the published name of the Account Owner.⁴ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of her claim, Claimant [REDACTED 2] submitted documents, including her parents' marriage certificate and her own birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Bernhard Rosenberg, and indicates that his date of birth was 2 February 1885 and place of birth was Neudenu and that he resided in Eschwege, which matches the information about the Account Owner provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Bernard Rosenberg, and that Claimant [REDACTED 2] filed an IQ asserting her entitlement to a Swiss bank account owned by her and by members of her immediate family, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP 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

⁴ The CRT notes that Claimant [REDACTED 1] indicated that his grandfather's first name was spelled "Bernard," while the Bank's records refer to "Bernhard." However, given that Claimant [REDACTED 1] identified the Account Owner's name prior to its publication, that the Bank's records consist only of a print-out from the Bank's database and no original document to substantiate the spelling of the Account Owner's name, and that "Bernard" is the French equivalent of "Bernhard," the CRT considers this minor discrepancy does not affect Claimant [REDACTED 1]'s identification of the Account Owner as his relative.

before the publication of the ICEP 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 ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that Claimant [REDACTED 1]'s grandfather and Claimant [REDACTED 2]'s father are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified 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. Claimant [REDACTED 1] stated that his grandfather was Jewish and that he and his wife were killed in 1941. Claimant [REDACTED 2] stated that her father was Jewish, that his business was destroyed during *Kristallnacht*, and that he and his family fled Germany to the United States. As noted above, a person named Bernhard Rosenberg was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimants have each plausibly demonstrated that they are related to the Account Owner.

Claimant [REDACTED 1] demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather.

Claimant [REDACTED 2] demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father. These documents include: (1) her parents' marriage certificate; (2) her own birth certificate; and (3) her passport.

The CRT further notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] each filed Initial Questionnaires with the Court in 1999, identifying the relationship between the Account Owner and themselves, prior to the publication in February 2001 of the ICEP List. Claimant [REDACTED 2] 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 Claimant [REDACTED 1] and Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] and Claimant [REDACTED 2] are related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to the Bank's suspense account on an unknown date and that it remains suspended today.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his grandfather, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her father, and those relationships justify 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 account of unknown type. The Bank's records indicate that the value of the account of unknown type as of 13 May 1980 was SF 8.15. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 545.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1980. Consequently, the adjusted balance of the account at issue is SF 553.15. According to Article 29 of the Rules, if the amount in a an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to half of the total Award amount.

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).

Certification of the Award

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

Claims Resolution Tribunal
23 June 2008