

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Accounts of Max Rosenberg

Claim Numbers: 212691/AH; 213778/AH

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Max Rosenberg (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 Claimants

The Claimants each submitted a Claim Form identifying the Account Owner as their father, Max Rosenberg, who was born in 1883 in Filehne, Germany, the son of [REDACTED] and [REDACTED]. The Claimants stated that Max Rosenberg was married to [REDACTED] and had two children: [REDACTED 2] (Claimant [REDACTED 2]) and [REDACTED 1] (Claimant [REDACTED 1]). The Claimants stated that their father resided at Ritterstrasse 34 in Berlin, Germany, where he also owned and managed, as of 1920, an alabaster and marble products factory, which was liquidated by the Nazis in 1939. The Claimants stated that their father, who was Jewish, fled in September 1939 with his wife and Claimant [REDACTED 2] from Germany to the United States, via the Netherlands, and that Claimant [REDACTED 1] was sent with a *Kindertransport* to England. The Claimants added that their parents were allowed to carry only personal belongings and were forced to leave behind all of the family’s assets and documents. The Claimants stated that [REDACTED] died in 1962 in Norristown, Pennsylvania, and that Max Rosenberg died in 1972, also in Norristown.

In support of their claims, the Claimants submitted their identification documents indicating their parents’ names, their parents’ marriage certificate and their father’s birth certificate, business letterhead and death certificate. The Claimants also submitted their father’s travel permit, dated 1924, bearing his photo and signature, and his signed will in which he bequeathed his entire

¹ In a separate decision, the Claimants were awarded other accounts belonging to their father, Max Rosenberg.

Estate in equal shares to the Claimants. Claimant [REDACTED 2] stated that he was born on 20 July 1922, and Claimant [REDACTED 1] stated she was born on 28 February 1928, both in Berlin.

Information Available in the Bank's Records

The Bank's records consist of an account card and printouts from the Bank's database. According to these records, the Account Owner was Max Rosenberg, who resided in Berlin, Germany, and who also used an address in Wiesbaden, Germany. The Bank's records indicate that the Account Owner held a custody account, numbered L32491, which was opened in 1930, and a demand deposit account, opened in 1931. Both accounts were closed on 31 May 1933. The amounts in the accounts 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.

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 claims of Claimant [REDACTED 1] and Claimant [REDACTED 2] in one proceeding.

Identification of the Account Owner

The Claimants' father's name and city of residence match the published name and city of residence of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name and place of residence. In support of their claims, the Claimants submitted their identification documents indicating their parents' names, their parents' marriage certificate and their father's birth certificate, business letterhead and death certificate. The Claimants also submitted their father's travel permit, dated 1924, bearing his photo and signature, and his signed will. The CRT notes that it previously awarded the Claimants other accounts belonging to their father, based on the Claimants' identification of unpublished information about their father, Max Rosenberg, the Account Owner. In the previous award, the Claimants identified their father's profession as a factory owner and manager, which matches the Account Owner's unpublished title of "*Direktor*." In addition, the Claimant submitted samples of their father's signature, which matches the signature sample contained in the Bank's records. The Claimants' ability to provide unpublished information about the Account Owner supports the Claimants' identification of the Account Owner. Finally, the CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different cities of residence than the city of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have 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. The Claimant stated that the Account Owner was Jewish, that his business was liquidated by the Nazis in 1939, and that he fled in September 1939 with his wife and daughter from Germany to the United States, via the Netherlands, while his son was sent with a *Kindertransport* to England.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents, including their birth certificates, demonstrating that they are the Account Owner's children. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; given that the Account Owner remained in Germany until 1939 and his accounts were closed in 1933, and he would not have been able to repatriate his accounts to Germany without its confiscation; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner 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 Claimants. 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 Owner was their father, and that relationship justifies an Award. Finally, 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 custody account and one demand deposit 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 Person ("ICEP" or "ICEP Investigation"),

² Appendix C appears on the CRT II website -- www.crt.ii.org.

in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs, producing a total of 15,140.00 Swiss Francs for the two accounts. The current value of these amounts is calculated by multiplying them by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 189,250.00 Swiss Francs.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents, the Award will provide for distribution among beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimants submitted the Account Owner's will in which the Account Owner bequeathed his entire Estate to the Claimants in equal shares. Accordingly, the Claimants are each entitled to one-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
July 15, 2003