CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Julius Rosenthal

Claim Number: 771799/OW; 778008/OW[1]

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the published account of Julius Rosenthal (the "Account Owner") at the [REDACTED] (the "Bank").

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 two Initial Questionnaires ("IQs") identifying the Account Owner as her father, Julius Isidor Rosenthal, who was born on 29 July 1875 in Hainau, Germany, and was married to [REDACTED], née [REDACTED]. The Claimant stated that her father, who was Jewish, owned and managed a transportation and communication company in Königsberg, East Prussia, Germany, (now Kaliningrad, Russia), where he resided between 1934 and 1938. The Claimant indicated that her parents lived in Berlin, Germany from 1938 to 1939, and that they subsequently fled Nazi Germany. The Claimant further indicated that her parents were denied entry to Switzerland and so fled to Amsterdam, the Netherlands. According to the Claimant, her father's company, "*Rote Radler*," was confiscated by the Nazis. The Claimant further stated that her parents were arrested in the Netherlands and were deported to a concentration camp in Poland or Germany, where they perished on an unknown date between 1943 and 1945. The Claimant submitted documents in support of her claims including her own birth certificate, indicating that [REDACTED] was born to Isidor Rosenthal, who was Jewish and a businessman,

[1] [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaires ("IQs"), numbered ENG 0066109 and ENG 0310040, to the Court in the United States. Although these IQs were not Claim Forms, 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). These IQs were forwarded to the CRT and have been assigned claim number 771799 and 778008, respectively.

and to [REDACTED], née [REDACTED], both of whom resided in Königsberg. The Claimant indicated that she was born on 21 August 1912 in Königsberg, Germany.

Information Available in the Bank's Record

The Bank's record consists of a list of custody accounts. According to this record, the Account Owner was *Direktor* (manager) Julius Rosenthal, who resided in Amsterdam, the Netherlands. The Bank's record indicates that the Account Owner held one custody account, numbered 2877.

While the Bank's record indicates that the account still existed in 1945, it does not show when the account at issue was closed, nor does it indicate the value of the account. 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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account 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 two claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the published name of the Account Owner. The Claimant identified the Account Owner's city and country of residence and that he owned a company, which matches unpublished information about the Account Owner contained in the Bank's record.[2]

In support of her claim, the Claimant submitted documents, including her own birth certificate indicating that Isidor Rosenthal was married to [REDACTED], née [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same surname recorded in the Bank's record as the surname of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Julius Rosenthal, and indicates that his date of birth was 29 July 1875; that his place of birth was Katowice, Germany (now Poland); that he was married to

[2] The CRT notes that historically, the title "Direktor" was consistent with ownership of a company.

[REDACTED], née [REDACTED]; and that during the Second World War he resided in Germany, the Netherlands, and Poland. This data matches the information about the Account Owner provided by the Claimant. The CRT notes that the Yad Vashem records were submitted by the Claimant on 5 October 1982. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed IQs with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her father, Julius Isidor Rosenthal, prior to the publication of the List of Account Owners determined by ICEP to be probably or possibly those of Victims of Nazi Persecution and published in 2005 (the "2005 List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the 2005 List. It also indicates that the Claimant had reason to believe that her 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 claims to this account were disconfirmed because those claimants provided different cities and countries of residence than the city and country of residence of the Account Owner indicated 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 he perished in a concentration camp during the Second World War. As noted above, a person named Julius Rosenthal 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 and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth certificate, indicating that [REDACTED] was born to Isidor Rosenthal and to [REDACTED], née [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained the Bank's record; that the Claimant filed two IQs with the Court in 1999, identifying the relationship between the Claimant and the Account Owner, prior to the publication of the 2005 List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes 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 Initial Questionnaires.

The Issue of Who Received the Proceeds

Given that the Bank's record indicates that the account still existed in 1945; that the Account Owner perished in a concentration camp during the Second World War; that there is no record of a date of closure of the account nor that the account was paid to the Account Owner or his heirs; that the Account Owner or his heirs would not have been able to obtain information about his account 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 (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, 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 account.

Amount of the Award

In this case, the Account Owner held 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). 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 162,500.00.

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
3 March 2006