

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Max Rosenthal

Claim Number: 774059/HB¹

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 Max 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 an Initial Questionnaire (“IQ”) identifying the Account Owner as her father, Max Rosenthal, who was born on 16 April 1884 in Muehringen, Germany. The Claimant stated that her father, who was Jewish, resided with his family at Quinckestrass 7 in Frankfurt am Main, Germany, from 1934 until 11 November 1941. The Claimant indicated that on 11 November 1941 the Gestapo confiscated her father’s assets and he was deported with his family to the ghetto in Minsk in the Soviet Union (now Belarus). According to the Claimant, her father perished during the Second World War subsequent to his deportation and was declared legally dead as of 8 May 1945.

In support of her claim, the Claimant submitted documents, including: (1) her German passport, issued on 7 August 1939 in Frankfurt, indicating that she is Jewish, that her name is [REDACTED], née [REDACTED], that she was born on 9 August 1912 in Frankfurt am Main, and that she resided in Frankfurt am Main; (2) the Claimant’s marriage certificate, dated 23 June 1938, indicating that her maiden name is [REDACTED] and that she was from Frankfurt am

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0145-113, 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 774059.

Main; (3) a certificate from the Jewish Community of Frankfurt am Main, issued on 26 November 1956, stating that Max Rosenthal, who was born on 16 April 1884 in Muehringen, and his daughters, [REDACTED] and [REDACTED], née [REDACTED], and his grandson, [REDACTED], all resided together at Quinckestrasse 7 in Frankfurt am Main, until 11 November 1941 when they were deported to Minsk; (4) a certificate of incarceration from the International Tracing Service of the International Committee of the Red Cross in Arolsen, Germany, issued on 10 July 1958 to the Claimant, indicating that Max Rosenthal, who was a Jewish prisoner, was born on 16 April 1884 in Muehringen, Wuerttemberg, that his last place of residence was at Quinckestrasse 7 in Frankfurt am Main, and that on 11 November 1941, the Gestapo deported him from Frankfurt am Main to Minsk.

The Claimant indicated that she was born on 9 August 1912 in Frankfurt am Main.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Max Rosenthal, who resided in Frankfurt am Main, Germany. The Bank's record indicates that the Account Owner held a demand deposit account and a custody account. The Bank's record indicates that the demand deposit account was closed on 20 June 1939 and that the custody account was closed in August 1938. The Bank's record does not indicate the value of the 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.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and country of residence match the published name and country of residence of the Account Owner. The Claimant also identified the Account Owner's 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 German passport issued in 1939, indicating that the Claimant's maiden name was Rosenthal and that she resided in Frankfurt am Main and was born there; a certificate issued by the Jewish Community of Frankfurt am Main, indicating that Max Rosenthal resided at Quinckestrasse 7 in Frankfurt am Main until 11 November 1941; a certificate of incarceration issued by the International Tracing Service of the International Committee of the Red Cross in Arolsen, indicating that Max Rosenthal's last place of residence prior to his deportation was Quinckestrasse 7 in Frankfurt am Main.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Rosenthal, and indicates that his date of birth was 16 April 1884 and that his place of birth was Muehringen, Wuerttemberg, 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.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Max Rosenthal, prior to the publication in February 2001 of the list of accounts determined by 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”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP 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 ICEP 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 ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different cities and/or countries of residence than the city and country of residence of the Account Owner or those claimants, though mentioning the city of residence of the Account Owner, did not provide a plausible connection to that city. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, that he was deported to the ghetto in Minsk in 1941 and that he perished thereafter and was declared legally dead as of 8 May 1945. The Claimant also submitted documents from the Jewish Community of Frankfurt am Main and from the International Tracing Service of the International Committee of the Red Cross in Arolsen, indicating that Max Rosenthal was Jewish and was deported to Minsk in 1941. As noted above, a person named Max 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 demonstrating that the Account Owner was her father. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank’s record; that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a certificate of incarceration regarding her father issued to the Claimant on 10 July 1958 by the International Committee of the Red Cross. Moreover, the Claimant also submitted copies of both her German passport and her marriage certificate, indicating that her maiden name is Rosenthal and that she was from Frankfurt am Main, which provides independent verification that the Claimant originally bore the same family name as the Account Owner and resided the same city as the

Account Owner. 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 has asserted in her Claim Form. 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 demand deposit account was closed on 20 June 1939 and that the custody account was closed in August 1938. Given that the Account Owner was Jewish and resided in Germany until his deportation in 1941; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's 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 accounts 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 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 Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. 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
31 December 2005