

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

to Claimant [REDACTED 3],

to Claimant [REDACTED 4],
represented by David Zwiebel

to Claimant [REDACTED 5],

and to Claimant [REDACTED 6]

in re Account of Mendel Rosner

Claim Numbers: 004164/MBC;¹ 100059/MBC; 202277/MBC; 221928/MBC; 004288/MBC;
717744/MBC²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), [REDACTED 3] (“Claimant [REDACTED 3]”), [REDACTED 4] (“Claimant [REDACTED 4]”), [REDACTED 5], née [REDACTED] (“Claimant [REDACTED 5]”), and [REDACTED 6] (“Claimant [REDACTED 6]”) (together the “Claimants”) to the published account of Mendel Rosner (the “Account Owner”) at the Zurich branch of 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.

¹ Claimant [REDACTED 1] submitted two additional claims, which are registered under the Claim Numbers 004162 and 004163. The CRT will treat these claims in separate determinations.

² [REDACTED 6] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HEB-0178149, 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 717744.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father's cousin, Mendel (Menachem) Rosner, who was born in approximately 1900 in Vishnitz, Romania (now the Ukraine). Claimant [REDACTED 1] indicated that his paternal grandfather, [REDACTED], was the brother of [REDACTED], Mendel Menachem Rosner's grandfather. Claimant [REDACTED 1] stated that his father's cousin was a merchant who traveled in Europe, including to Switzerland. Claimant [REDACTED 1] indicated that his father's cousin, who was Jewish, resided in Cernauti, Romania (now the Ukraine) between 1930 and 1941. Claimant [REDACTED 1] stated that his father's cousin was deported by the Nazis to Transinistria, Romania, where he died in approximately 1943. Claimant [REDACTED 1] submitted a copy of his identity card, indicating that his surname is [REDACTED] and that he was born in Romania.

Claimant [REDACTED 1] indicated that he was born on 6 January 1928 in Suceava, Romania.

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Hans Werner Halter, his mother's great-uncle.³

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as himself, Menachem (formerly Mendel) Manfred Rosner. Claimant [REDACTED 2] indicated that he is Jewish and that he was born on 16 October 1922 in Cernauti, Romania, and that he married [REDACTED] on 4 June 1943 in Tel Aviv, Palestine (now Israel). Claimant [REDACTED 2] indicated that his father, [REDACTED], owned a textile factory in Cernauti and that the family fled to Bucharest, Romania in 1939. Claimant [REDACTED 2] indicated that in 1941 he fled Romania for Palestine, and that his parents tried to come to Palestine as illegal immigrants on the boat *Struma*, but died when the ship sank. Claimant [REDACTED 2] indicated that he was given two first names: [REDACTED] was his German name and Mendel was his Jewish name. According to Claimant [REDACTED 2], as anti-Semitic persecution spread, his father opened an account in his name. Claimant [REDACTED 2] further stated that after emigrating to Israel, he changed his name to [REDACTED], the Hebrew equivalent of Mendel. Claimant [REDACTED 2] submitted a copy of a certificate from the Romanian government, indicating his parents died on the *Struma*, a copy of his own identity card, indicating that he was born in Romania, and a copy of a certificate from the Romanian government indicating that his name is [REDACTED 2].

Claimant [REDACTED 2] indicated that he was born on 16 October 1922 in Cernauti.

³ The CRT will treat the claim to this account in a separate determination.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as his father, Itzhak Mendel Rosner, who was born on 21 July 1892 in Vishnitz, Romania (now the Ukraine), and was married to [REDACTED] on 9 June 1929 in Cernauti, Romania (now the Ukraine), with whom he had one child, Claimant [REDACTED 3]. Claimant [REDACTED 3] indicated that his father, who was Jewish, was an exporter of fur and leather goods and resided in Cernauti. Claimant [REDACTED 3] indicated that during the Second World War, his family was forced to live in a ghetto, and that his father performed slave labor. Claimant [REDACTED 3] indicated that his father died on 8 March 1982 in Haifa, Israel. Claimant [REDACTED 3] submitted a copy of his birth certificate, indicating that he was born in Cernauti to Mendel Rosner.

Claimant [REDACTED 3] indicated that he was born on 5 June 1930 in Cernauti.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as his paternal uncle, Mendel Rosner, who was born in Vilavcea, Bukovina, Romania to [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 4] stated that his uncle, who was Jewish, was his father's younger brother, and that he was a businessman in Cernauti, Romania. Claimant [REDACTED 4] further stated that his uncle was deported from Cernauti and perished in an extermination camp. Claimant [REDACTED 4] submitted a copy of his birth certificate, indicating he was born to [REDACTED] and [REDACTED] in Cernauti.

Claimant [REDACTED 4] indicated that he was born on 14 March 1929 in Cernauti.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted a Claim Form identifying the Account Owner as her paternal grandfather, Mendel Rosner, who was born in Austria or Cernauti, Romania (now the Ukraine). Claimant [REDACTED 5] indicated that her late cousin [REDACTED] mentioned that their family was in the lumber business. According to Claimant [REDACTED 5], her grandfather, her paternal uncle, whose name was also Mendel Rosner, and her father, [REDACTED], travelled in Europe for business purposes. Claimant [REDACTED 5] indicated that her grandfather, her uncle and most of her relatives, who were Jewish, were deported by the Nazis to Transinistria, Romania, where they all perished. Claimant [REDACTED 5] stated that her late cousin had found accounts in England that belonged to the family, and that he had unsuccessfully tried to trace Swiss bank accounts. Claimant [REDACTED 5] indicated that she was a child during the Second World War and most of her family has since died, so that she has little detailed information about her family.

Claimant [REDACTED 5] indicated that she was born on 28 September 1932 in Przemysl, Poland.

Claimant [REDACTED 6]

Claimant [REDACTED 6] submitted an Initial Questionnaire identifying the Account Owner as his father, Mendel Menachem Rosner, who was married to [REDACTED]. Claimant [REDACTED 6] indicated that his family, who were Jewish, resided in Cernauti, Romania (now the Ukraine), and that during the Second World War, his father was forced to perform slave labor, and that he never returned. Claimant [REDACTED 6] indicated that he emigrated to Israel in 1950 with his mother and his brother, [REDACTED]. In a telephone conversation with the CRT on 13 December 2004, Claimant [REDACTED 6] stated that a family friend later told Claimant [REDACTED 6]'s mother that he and Claimant [REDACTED 6]'s father had a joint bank account, and that he was able to retrieve the account after his mother gave the friend power of attorney form. Claimant [REDACTED 6] further stated that the friend believed that Claimant [REDACTED 6]'s father had other accounts which were never recovered. Claimant [REDACTED 6] indicated that he has a brother, [REDACTED], who is not represented in his claim.

Claimant [REDACTED 6] indicated that he was born on 30 May 1937.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a printout from the Bank's database. According to these records, the Account Owner was Mendel Rosner, who resided in Cernauti, Romania. The Bank's records indicate that the Account Owner held a numbered account identified by the number 9080, the type of which is not indicated. These records indicate that the Account Owner, who was a Romanian citizen, instructed the Bank to hold all correspondence.

According to these records, the account was closed on an unknown date prior to 23 August 1957. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records 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, 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 six claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants' relatives' name, city, and country of residence each match the published name, city, and country of residence of the Account Owner.

In support of their claims, Claimant [REDACTED 2] submitted a certificate from the Romanian government indicating that his name is [REDACTED 2], and Claimant [REDACTED 3] submitted his birth certificate, indicating his father was Mendel Rosner, providing independent verification that the persons who are claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's records as the name and country of the Account Owner.

The CRT notes that Claimant [REDACTED 6] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father, Mendel Rosner, prior to the publication in February 2001 of the 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"). This indicates that Claimant [REDACTED 6] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 6] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 6].

The CRT notes that the name Mendel Rosner appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution.

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2], Claimant [REDACTED 3]'s relative, Claimant [REDACTED 4]'s relative, Claimant [REDACTED 5]'s relative, and Claimant [REDACTED 6]'s relative 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 the information provided by each claimant supports and in no way contradicts any information 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 claim to this account was disconfirmed because that claimant provided a different country of residence, than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants all stated that the Account Owner was Jewish. Claimant [REDACTED 1] stated that the Account Owner was deported by the Nazis to Transnistria, where he died in approximately 1943. Claimant [REDACTED 2] indicated that the Account Owner fled Romania for Palestine in 1941. Claimant [REDACTED 3] stated that during the Second World War, the Account Owner was forced to live in a ghetto and that he performed slave labor. Claimant [REDACTED 4] stated that the Account Owner was deported from Cernauti and perished in an extermination camp. Claimant [REDACTED 5] stated that the Account Owner was deported by the Nazis to Transnistria, where he perished. Claimant

[REDACTED 6] stated that the Account Owner was forced to perform slave labor, and was never heard from again.

The Claimants' Relationships to the Account Owner

The Claimants have each plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was their relative. Claimant [REDACTED 3] submitted his birth certificate, indicating his father was Mendel Rosner.

The CRT further notes that Claimant [REDACTED 6] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and him, prior to the publication in February 2001 of the ICEP List.

The CRT further notes that Claimant [REDACTED 1] submitted a copy of his identity card; Claimant [REDACTED 2] submitted a copy of his own identity card and a copy of a certificate from the Romanian government; Claimant [REDACTED 3] submitted a copy of his birth certificate; and Claimant [REDACTED 4] submitted a copy of his birth certificate. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and which provide independent verification that the Claimants' relatives each bore the same family name as the Account Owner and that they resided in Romania.

Finally, the CRT notes that the information provided by each of the Claimants is of the type that family members would possess and indicates that the Account Owner was well known to each of the Claimants as a family member, and all of this information supports the plausibility that the Claimants are each related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

Given that the Claimants' relatives all resided in Nazi-allied Romania; that Claimant [REDACTED 1]'s relative was deported to Transnistria, where he died in approximately 1943; that Claimant [REDACTED 2] fled Romania for Palestine in 1941; that Claimant [REDACTED 3]'s father was forced to live in a ghetto and that he performed slave labor; that Claimant [REDACTED 4]'s uncle was deported from Cernauti and perished in an extermination camp; that Claimant [REDACTED 5]'s grandfather was deported to Transnistria, where he perished; that Claimant [REDACTED 6]'s father was forced to perform slave labor and never returned; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner and 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 (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 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 father's cousin; Claimant [REDACTED 2] has plausibly demonstrated that he is the Account Owner, Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was his father, Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was his uncle, Claimant [REDACTED 5] has plausibly demonstrated that the Account Owner was her grandfather, and Claimant [REDACTED 6] has plausibly demonstrated that the Account Owner was his father, and those relationships justify 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 an account of unknown type. 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 ICEP (the "ICEP Investigation"), in 1945 the average value of an account of unknown type was 3,950.00 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 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], Claimant [REDACTED 2], Claimant [REDACTED 3], Claimant [REDACTED 4], Claimant [REDACTED 5] and Claimant [REDACTED 6] are each entitled to one-sixth of the 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
7 June 2006