

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Norbert Roth

Claim Number: 501645/BW/AC

Award Amount: 172,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Norbert Roth. This award is to the published and unpublished accounts of Norbert Roth (the “Account Owner”), over which Sophie Roth (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner and the Power of Attorney Holder as his parents, Norbert Roth, who was born on 3 April 1890 in Zydaczow, Poland (now Zhydachiv, Ukraine), and Sophie Roth, née Landau, who was born 14 March 1901, who were married 21 July 1921 in Vienna, Austria. The Claimant stated his parents, who were Jewish, lived from 1930 to 1938 at Werdertorgasse 9 in Vienna, and that they fled to England after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). The Claimant indicated that his mother died on 22 November 1974, that his father died on 14 February 1978, both in London, England, and that he had been their only child. In support of his claim, the Claimant submitted a copy of his passport, indicating that his name is [REDACTED], and that he was born on 25 March 1924 in Vienna.

The Claimant indicated that he was born on 25 March 1924 in Vienna.

¹ 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”), Norbert Roth is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was Norbert Roth, who resided at Mariahilferstrasse No. 88 in Vienna VII, and the Power of Attorney Holder was *Frau* (Mrs.) Sophie Roth, who resided at the same address. The Bank's records indicate that the Account Owner held a custody account and a savings account.²

These records, which include signature samples for the Account Owner and the Power of Attorney Holder, indicate that power of attorney was granted on 30 November 1925. According to these records, the savings account had a balance of 20.00 Swiss Francs ("SF") on an unknown date. The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts when they were closed.

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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Norbert Roth, numbered 26531, and Sophie Roth, née Landau, numbered 43045.

These documents indicate that Norbert Roth worked as a contractual official at the Jewish Community (*Isr. Kultusgemeinde Wien*). These documents also indicate that Norbert Roth was born on 3 April 1890, that he was married to Sophie Roth, née Landau, who was born on 14 March 1901, and that they resided at Werdertorgasse 9 in Vienna. According to these records, Norbert Roth had no assets other than his salary and a patent that he owned, and Sophie Roth owned real estate interests in Germany and Poland with a total value of 60,613.00 Reichsmark ("RM"). These records also contain the signatures of Norbert and Sophie Roth. These records make no mention of assets held in Swiss bank accounts.

² The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Banks typically used such forms at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's parents' names, city and country of residence match the published names, city and country of residence of the Account Owner and the Power of Attorney Holder. The CRT notes that the names, city and country of residence, and signatures for Norbert and Sophie Roth contained in their 1938 Census declarations match those contained in the Bank's records for the Account Owner and the Power of Attorney Holder, and the CRT therefore determines that the 1938 Census records and the Bank's records refer to the same individuals.

The Claimant also identified the Power of Attorney Holder's maiden name, and the street address and dates of birth of the Account Owner and the Power of Attorney Holder contained in the 1938 Census records.

The CRT notes that the names Norbert Roth and Sophie Roth each appear 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 "ICEP List"). Finally, the CRT notes that there are no other claims to these accounts.

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 lived in Nazi-controlled Austria, and that he fled to England after the *Anschluss*.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was the Claimant's father. The CRT notes that the Claimant submitted a copy of his passport, which provides independent verification that the Claimant bears the same family name as the Account Owner and that he was born in Vienna. The CRT further notes that the Claimant identified information about the Account Owner contained in the 1938 Census records. This 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 he has asserted in his Claim Form.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Austria until he fled to England after the *Anschluss*; that there is no record of the payment of the Account Owner's accounts to him, nor any record of a date of closure of the accounts; that the Account Owner and his heirs would not have been able to obtain information about the accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating accounts 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, the Power of Attorney Holder, or their 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 his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held a custody account and a savings 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 accounts in 1945 is used to calculate the current value of the accounts being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00, and the average value of a savings account was SF 830.00, for a combined average value of SF 13,830.00 for the two accounts at issue. 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 172,875.00.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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
12 May 2006