

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
represented by [REDACTED]

in re Account of Walter Roth

Claim Numbers: 215713/WI; 220368/WI

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Walter Roth (the “Account Owner”) at the Solothurn branch of the [REDACTED] (the “Bank”).¹

All awards are published, but where claimants have requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father, Walter Roth, who was born on 9 December 1920 in Vienna, Austria and was married to [REDACTED] on 7 August 1947 in Israel. Claimant [REDACTED 1] indicated that his father, who was Jewish, resided at Rogergasse 27 in Vienna IX, before the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). Claimant [REDACTED 1] explained that in 1938, his grandfather, [REDACTED], was deported to Dachau, and his father fled Austria for Romania, and subsequently to Hungary, and finally to Haifa, Israel. Claimant [REDACTED 1] further indicated that after the Second World War, his parents divorced and his father returned to Vienna. Claimant [REDACTED 1] stated that after his mother remarried, he learned about his

¹ The CRT notes that on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Walter Roth appears twice. Upon careful review, the CRT has determined that the second Walter Roth is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

biological father and his family only at the age of sixteen and met him for the first time only at the age of 33. Finally, Claimant [REDACTED 1] stated that he received an inheritance from his paternal grandparents, [REDACTED] and [REDACTED], née [REDACTED], who resided in New York, New York, the United States. Claimant [REDACTED 1] indicated that his father died on 29 June 1988 in Vienna, and that he did not have any other children.

In support of his claim Claimant [REDACTED 1] submitted copies of: (1) his own birth certificate, indicating that [REDACTED 1] was born on 13 December 1947 in Haifa to Walter and [REDACTED]; (2) a sworn statement signed by his paternal aunt, [REDACTED], dated 30 November 1997, indicating that [REDACTED 1] ([REDACTED], [REDACTED 1]) is the son of the [REDACTED]'s brother Walter Roth from Vienna; that, escaping Nazi persecution, Walter Roth fled Europe for Israel where he married [REDACTED] from Haifa, and that after divorcing his wife, he came back to Vienna, where he remained until the end of his life; and (4) probate documents regarding the last will of his paternal grandmother, naming [REDACTED 1] as one of the beneficiaries of [REDACTED].

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Walter Roth.

Claimant [REDACTED 1] indicated that he was born on 13 December 1947 in Haifa.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her late husband, Walter Roth, who was born on 5 May 1910 in Vienna, and whom she married on 27 July 1937. Claimant [REDACTED 2] indicated that her late husband, who was Jewish, worked as a reporter for a Vienna newspaper the *Wiener Tag Blatt* and resided in Vienna until 1937. Claimant [REDACTED 2] also indicated that, after her husband lost his job with the newspaper in 1937, he moved to Singapore, where he worked for the *Nouveaux Company*. Claimant [REDACTED 2] stated that she fled Vienna and joined her husband in Singapore soon after the *Anschluss*. Claimant [REDACTED 2] further indicated that in 1940, due to the unstable political situation, she and her husband were deported from Singapore to Australia, where they spent fifteen months interned in an army barracks in Tatura, Victoria, Australia, treated as enemy aliens. Claimant [REDACTED 2] stated that after this period, they were granted Jewish refugee status and settled in Sydney, Australia. Finally, Claimant [REDACTED 2] stated that her husband told her that prior to his departure from Europe he had deposited savings in "the only safe haven for accumulated funds," namely Switzerland. Claimant [REDACTED 2] indicated that her husband died on 19 March 1950 in Sydney, leaving behind only her and their daughter, [REDACTED], née [REDACTED].

In support of her claim Claimant [REDACTED 2] submitted copies of: (1) her own marriage certificate, issued by the Jewish Community of Vienna, indicating that Walter Roth was born on 5 May 1910 in Vienna and that on 19 July 1937 he was married to [REDACTED 2], who was born on 28 September 1914 in Vienna; (2) her husband's letterhead, indicating that Walter Roth had an address at Praterstrasse 34 in Vienna; (3) her own certificate of identity in lieu of national passport issued by immigration authorities in Singapore, dated 23 August 1939, indicating that

[REDACTED 2], née [REDACTED] was formerly of Austrian nationality and that she was married to Walter Roth; (4) her own declaration of acquisition of British nationality, dated August 1944, indicating that [REDACTED 2], who resided in Sydney and was married to Walter Roth, acquired British nationality on 22 June 1944; (5) her husband's Austrian driver's license, dated 25 August 1931, indicating that *Herr* (Mr.) Walter Roth was born on 5 May 1910 in Vienna; (6) her husband's death certificate, indicating that Walter Roth was married to [REDACTED 2] and died at the age of 39 on 19 March 1950 in Randwick, Sydney, and that he was buried in the Jewish cemetery; (7) her own marriage certificate, indicating that [REDACTED 2] was a widow and that she married [REDACTED] on 17 December 1951 in New South Wales, Australia; and (8) her daughter's birth certificate, indicating that [REDACTED] was born to Walter Roth and [REDACTED 2] on 25 March 1945 in Randwick.

The Claimant indicated that she was born on 28 September 1914 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a list of savings accounts that were placed in a collective suspense account. According to this record, the Account Owner was Walter Roth. The Bank's record does not indicate the Account Owner's domicile. The Bank's record indicates that the Account Owner held one savings/passbook account, numbered 9042. According to the Bank's records, the account was transferred to a suspense account for dormant assets on 31 December 1942 because it had been dormant for the previous six years. The amount in the account as of 1936 was 3.30 Swiss Francs ("SF"). 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") indicated that the account was closed on 10 May 1943, as of which date it had a balance of SF 0.00.

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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants' relatives' names both match the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name.

In support of his claim Claimant [REDACTED 1] submitted copies of documents, including his own birth certificate, identity card and a sworn statement signed by his paternal aunt

[REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 1] filed an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Walter Roth, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] 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 1] 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 1]

In support of her claim, Claimant [REDACTED 2] submitted copies of documents, including her own marriage certificate, her husband's driver's license and death certificate, her daughter's birth certificate, and her declaration of acquisition of British nationality and certificate of identity in lieu of national passport issued by immigration authorities in Singapore, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'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 record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Target of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Target of Nazi Persecution. The Claimants each stated that the Account Owner was Jewish. Claimant [REDACTED 1] indicated that his father fled Austria after the *Anschluss* and that members of his family were deported to Dachau. Claimant [REDACTED 2] stated that her late husband left Austria shortly before the *Anschluss* and was granted refugee status in Australia.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, including copies of his own birth certificate, identity card and a sworn statement signed by his paternal aunt [REDACTED], demonstrating

that the Account Owner was Claimant [REDACTED 1]'s father. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has also plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, including copies of her marriage certificate, her husband's death certificates, her daughter's birth certificate, and her declaration of acquisition of British nationality and certificate of identity in lieu of national passport issued by immigration authorities in Singapore, demonstrating that the Account Owner was Claimant [REDACTED 2]'s late husband. The CRT notes that the Claimant indicated that she has a surviving daughter, but that because she is not represented in Claimant [REDACTED 2]'s claim, the CRT will not treat her potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was suspended in 1942, and the auditors who conducted the ICEP Investigation indicated that the account was closed in 1943.

Given that Claimant [REDACTED 1] indicated that the Account Owner resided in Austria until the *Anschluss*, after which he fled to Romania, Hungary, and Israel, and that Claimant [REDACTED 2] indicated that the Account Owner resided in Austria before emigrating to Singapore and being deported to Australia; that there is no record of the payment of the Account Owner's account to him; 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 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 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 and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her husband 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 account.

Amount of the Award

In this case, the Account Owner held one savings/passbook account. The Bank's record indicates that the value of the account as of 1936 was SF 3.30. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 10,375.00.

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, the Claimants each are entitled to one-half 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
30 May 2008