

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Jacob Johann Rothberger

Claim Number: 402211/NB

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Jacob Johann Rothberger (the “Account Owner”) 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 as her cousin, Jacob Johann Rothberger, who was born on 9 May 1899, in Vienna, Austria, to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant stated that her cousin, who was Jewish, was never married and that he had no children. The Claimant explained that her father, [REDACTED], and Jacob Johann Rothberger’s father ([REDACTED]) were brothers, and that their parents were [REDACTED] and [REDACTED], née [REDACTED]. The Claimant stated that her cousin had a brother named [REDACTED], who was born on 14 October 1902 in Vienna. The Claimant indicated that in May 1938, her cousin was interned in the Dachau concentration camp for four months and then deported to the Buchenwald concentration camp. The Claimant further stated that in 1939 her cousin emigrated to England where he was interned prior to being sent to another internment camp in Canada where he was detained from 1940 to 1945. The Claimant indicated that her cousin died on 18 June 1987 in Montreal, Canada. Additionally, the Claimant indicated that [REDACTED] died on 30 May 2000.

¹ The name Jacob Rothberger (the “Account Owner”) appears on the List of Account Owners Published in 2005 (the “2005 List”). Additionally, the CRT notes that, on the list of account owners reported in the 1962 Survey (further defined in the body of the award) (the “1962 Survey List”), which was published by the Swiss Government on 19 January 1999, the Account Owner’s name appears as Jacob Johann Rothberger, and his residence is listed as Vienna, Austria.

In support of her claim, the Claimant submitted copies of: (1) [REDACTED]'s birth certificate, which indicates that [REDACTED] was the son of [REDACTED] and [REDACTED], née [REDACTED]; (2) Jacob Johann Rothberger's birth certificate, which indicates that he was born on 9 May 1899 in Vienna and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (3) the Claimant's father's birth certificate, which indicates that [REDACTED] was the son of [REDACTED] and [REDACTED], née [REDACTED]; (4) the Claimant's own birth certificate, which indicates that her parents were Dr. [REDACTED] and [REDACTED], née [REDACTED]; (5) her cousin's death certificate, which indicates that Jacob Johann Rothberger died on 18 June 1987 in Montreal; (6) a solemn declaration from the Superior Court of the Province of Quebec, District of Montreal, indicating that Jacob Johann Rothberger's only surviving heir was his brother, [REDACTED], who was entitled to inherit Jacob Johann Rothberger's entire estate; (7) [REDACTED]'s will, which indicates that [REDACTED]'s residual property was to be inherited by his cousin, [REDACTED] (the Claimant); and (8) [REDACTED]'s probate certificate, which indicates that he passed away on 30 May 2000.

The Claimant indicated that she was born on 28 November 1928 in Vienna, Austria.

Information Available in the Bank's Record

The CRT notes that 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 report an account belonging to Jacob Johann Rothberger during their investigation of the Bank. The documents evidencing an account belonging to Jacob Johann Rothberger were obtained from archival sources in the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Jacob Johann Rothberger, numbered 499.

These records indicate that the Account Owner was Jacob Johann Rothberger, who resided at Rummelhardtgasse 3, in Vienna, Austria. The records from the Swiss Federal Archive also indicate that the Bank's last contact with the Account Owner was in 1939. These records show that the Account Owner held one demand deposit account at the Bank, which held a balance of 326.00 Swiss Francs ("SF") as of 1 September 1963.

Furthermore, according to the records from the Swiss Federal Archive, the Account Owner's assets were reported to the Registration Office for Assets of Missing Foreigners (the

“Registration Office”) (*Meldestelle für Vermögen verschwundener Ausländer*) on 28 February 1964. According to these records, on 2 December 1966, the Guardianship Authority of the City of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) appointed Dr. H. Häberlin as the custodian of this account, as prescribed by the Federal Decree.

These records do not contain any information about the disposition of this account. There is no evidence in the records from the Swiss Federal Archive that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s cousin’s name matches the published name of the Account Owner. Furthermore, the Claimant identified her cousin’s middle name, and city and country of residence, which match additional information about the Account Owner contained in the records of the Swiss Federal Archive. In support of her claim, the Claimant submitted numerous documents, including her cousin’s birth and death certificates, which provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Swiss Federal Archive as the name and city of residence of the Account Owner. Finally, the CRT notes that there are no other claims to this account. 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, who was Jewish, was interned in the Dachau concentration camp in May 1938, and that he was later deported to the Buchenwald concentration camp. Additionally, the Claimant indicated that the Account Owner emigrated to England in 1939.

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 cousin. These documents include the birth certificates of the Account Owner, [REDACTED], the Claimant, and [REDACTED]. The Claimant also submitted a probate document pertaining to the Account Owner and the will of the Account Owner’s brother, together indicating that the Claimant is the Account Owner’s cousin and sole surviving heir. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Swiss Federal Archive records indicate the Bank did not have any contact with the Account Owner after 1939, and that the account was still open in December 1966. Given 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 was included in the 1962 Survey, 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 Presumption (h), 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 cousin, 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 demand deposit account. The records of the Swiss Federal Archive indicate that the value of the demand deposit account as of 1 September 1963 was SF 326.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 611.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 26,750.00.

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
24 September 2008