

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Esther Bornstein

in re Accounts of Dr. Hugo Rothschild

Claim Number: 210857/MBC

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Esther Bornstein, née Rothschild, (the “Claimant”) to the accounts of Dr. Hugo Rothschild at the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Dr. Hugo Rothschild, who was born on 4 September 1899 in Germany, and was married to Alice Rothschild, née Gernsheimer. The Claimant stated that her father, who was Jewish, was a dentist and resided in Darmstadt, Germany. The Claimant further indicated that in 1935, after her father was prohibited from practicing dentistry because he was Jewish, her parents fled Germany, and that they settled in Palestine (now Israel). The Claimant stated that she was unaware of an account belonging to her father but stated that according to her mother, her maternal grandfather, Julius Gernsheimer, smuggled money to somewhere in Europe. The Claimant further stated that her grandfather was shot in Dachau in 1942. In support of her claim, the Claimant submitted a document of Israeli citizenship from the Ministry of Interior Population Administration of the State of Israel, identifying Hugo Rothschild as her father and indicating that he received his citizenship in 1939. The Claimant stated that her father died in Israel in 1969.

The Claimant indicated that she was born on 20 May 1936 in Palestine.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Hugo Rothschild, who resided in Darmstadt, Germany. The Bank's record indicates that the Account Owner held one custody account, numbered L 3836, and one demand deposit account, which were closed on 14 and 16 August 1933, respectively. The Bank's record does not indicate the value of these 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 has plausibly identified the Account Owner. Her father's name matches the published name of the Account Owner. Furthermore, the Claimant indicated that her father held the title of doctor, and that her family lived in Darmstadt, Germany, which matches unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Claimant submitted a document of Israeli citizenship from the Ministry of Interior Population Administration of the State of Israel, identifying Hugo Rothschild as her father. The CRT further notes that the other claim to these accounts was disconfirmed because that claimant provided a different city of residence than the city of residence of the Account Owner as stated in the Bank's record.

Status of the Account Owner as a Target of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Target of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he fled Germany in 1935 when he was unable to practice dentistry because he was Jewish.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that she is related to the Account Owner by submitting a document of Israeli citizenship from the Ministry of Interior Population Administration of the State of Israel, demonstrating that the Account Owner was her father. The CRT notes that the Claimant identified unpublished information about her father's title and city of residence, as contained in the Bank's records. The CRT further notes that there is an indication, in the submitted family tree, of a sibling to the Claimant. To this date, however, the CRT has not received a Claim Form from this person. In accordance with to Article 24 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the rights of an individual to an Account who has not submitted a claim to the CRT will, as a general rule, not be considered under the Claims Resolution Process authorized by the Rules.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owner's accounts were closed in 1993, but he remained in Germany until 1935 and would not have been able to repatriate his account to Germany without its confiscation; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,¹ 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 father, and that relationship justifies an Award. Finally, 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs, producing a total value for the two accounts of 15,140.00 Swiss Francs. 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 189,250.00 Swiss Francs.

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).

¹ Appendix C appears on the CRT II website -- www.crt-ii.org.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
6 February 2004