

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
acting on behalf of himself, [REDACTED], [REDACTED], [REDACTED], and [REDACTED]

in re Account of Ida Rothschild

Claim Number: 219294/MD

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Ida Rothschild (the “Account Owner”) at 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.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner Ida Rothschild as his great-aunt (and also his step-grandmother). The family tree provided by the Claimant indicates that his maternal grandfather, [REDACTED], who was born in 1861, married [REDACTED], with whom he had four children: [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. The Claimant stated that he and his sister, [REDACTED], are the children of [REDACTED], née [REDACTED], and that his cousins, [REDACTED], [REDACTED], and [REDACTED], are the children of [REDACTED]. The Claimant further stated that in 1897, following [REDACTED]’s death, [REDACTED] married [REDACTED]’s younger sister, Ida [REDACTED], who was born in 1876 in Weinheim, Germany. According to the Claimant, [REDACTED] and Ida Rothschild had two children: Margaret and [REDACTED], neither of whom have any surviving descendants.

The Claimant stated that his grandfather died in 1924, and that after his death, Ida Rothschild managed a family department store named “*Geb Brüder Rothschild*” in Heidelberg, Germany. According to the information in the Claim Form, Ida Rothschild lived at 10 Roonstrasse in Heidelberg. The Claimant asserted that his sister, [REDACTED], attended a boarding school in Switzerland, and that Ida Rothschild paid the school fees and visited the Claimant’s sister there.

According to the information provided by the Claimant, Ida Rothschild, who was Jewish, was forced to sell her business and flee Germany to England, where her daughter Margaret lived, in 1938. The Claimant stated that Ida Rothschild died in 1947 in Letchworth/Herts, England. In support of his statement, the Claimant provided Ida Rothschild's British wartime identity card which contains a sample of her signature and that indicates that she was a "refugee from Nazi oppression."

The family tree submitted by the Claimant indicates that Ida Rothschild's daughter, Margaret (Grethe) was married to a man named Kantorowicz whom she divorced in 1935. The Claimant stated that Margaret remarried and died without issue in 1971. The family tree indicates further that Ida Rothschild's other daughter, [REDACTED], died in 1970, and that [REDACTED]'s daughter, [REDACTED], died without issue in 1950. The Claimant indicated that Ida Rothschild's nephews (and step sons), [REDACTED] and [REDACTED], died in 1926 and 1938 respectively. According to the family tree, the Claimant and the individuals whom he represents are the grandchildren of [REDACTED] and the step-grandchildren and great-nieces and -nephews of the Account Owner, and are the only surviving heirs of their grandparents.

Information Available in the Bank Records

The bank records consist of a power of attorney form and a registry card. According to these records, the sole Account Owner was Ida Rothschild and the Power of Attorney Holder was Grete Kantorowicz. The bank records indicate that the Account Owner lived in Heidelberg at Roonstrasse 10, and that she held an account of unknown type which was opened not later than October 1930. The bank records do not show if or when the account at issue was closed, or to whom, if anyone, it was paid. Furthermore, the records do not indicate the value of the account. 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") did not find the account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. He stated that his great-aunt lived at 10 Roonstrasse in Heidelberg, which matches the unpublished address of the Account Owner contained in the bank records. Further, the Claimant stated that one of Ida Rothschild's daughters was Margaret (Grethe) [REDACTED] Kantorowicz, which matches the Power of Attorney Holder's name. Finally, the Claimant submitted a sample of his great-aunt's (step grandmother's) signature, which matches the signature sample contained in the bank records.

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, that she was forced by the Nazis to sell her business, and that she fled to England in 1938. The Claimant also attached Ida Rothschild's British wartime identity card indicating that she was a "refugee from Nazi oppression."

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he, and the relatives whom he represents, are the great-nephews and great-nieces of the Account Owner as well as the Account Owner's step grandchildren by submitting a detailed family tree indicating that the Account Owner was the sister of his and his relatives' maternal grandmother, and subsequently the wife of their maternal grandfather. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

This case raises the question of whether the Account Owner could have accessed her account after leaving Germany. The bank records indicate that the Account Owner was a German national with an address in Germany. Given the Nazi enforcement of flight taxes, the Nazi campaign to confiscate the domestic and foreign assets of its Jewish nationals, and the application of Presumptions (h) and (j) contained in Appendix A,¹ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her heirs. Based on its precedent and the Rules Governing the Claims Resolution Process (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 23 of the Rules. Second, the Claimant has plausibly demonstrated that he and the relatives he represents are related to the Account Owner, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

¹ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, claimants shall receive an initial payment of 65% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 35% of the total award amount. In this case, the value of the account at issue is based on the Article 35 presumptions. In this instance, 65% of the total award amount is 30,810.00 Swiss Francs.

Division of the Award

The Claimant is representing his sister and his three cousins in these proceedings. All five of these individuals have the same relationship to the Account Owner, namely that she was their great-aunt and also step grandmother. Therefore, the Claimant's sister and his cousins are each entitled to one-fifth of any payment made to the Claimant.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 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
October 24, 2002

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); *see also*

Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on 'unclaimed cash' persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).