

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Rosa Rubin

Claim Numbers: 222142/MBC; 790400/MBC¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED] (“Claimant [REDACTED]”) (together the “Claimants”) to the published account of Rosa Rubin (the “Account Owner”) at the Basel branch of 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

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his mother, Rosa Rubin, née Appel, who was born on 15 March 1898, and was married to [REDACTED] in 1920 in Hungary. Claimant [REDACTED 1] stated that his father was a shoemaker and owned a factory and business located on the main street in Paszto, Hungary. In a telephone conversation with the CRT on 17 September 2002, Claimant [REDACTED 1] indicated that his parents travelled to Italy including Milan on business. Claimant [REDACTED 1] further stated that his parents, who were Jewish, were deported to the Hatvan ghetto in Hungary in April 1944 and subsequently to Auschwitz in 1944. Claimant [REDACTED] further indicated that his two sisters, including Claimant [REDACTED 2], were also deported to the Hatvan ghetto, and then to Auschwitz, along with his parents. Finally, Claimant [REDACTED 1] stated that his father was transferred to Buchenwald, Germany, where he perished, and that his

¹ Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered 0603170, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 790400.

mother and one of his sisters, [REDACTED], perished in Auschwitz. Claimant [REDACTED 1] indicated that he was born on 18 June 1929 in Hungary.

Claimant [REDACTED 1] submitted his passport identifying his surname as [REDACTED] and indicating that he was born in Hungary. Claimant [REDACTED 1] previously submitted a number of Initial Questionnaires (“IQs”) with the Court, including an IQ asserting his entitlement to a Swiss bank account owned by his parents.

Claimant [REDACTED 2] submitted an IQ providing information about her detention in Nazi concentration camps and work camps and indicating that [REDACTED 1] was her brother, and that she was born on 6 July 1925.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Rosa Rubin who resided in Milan, Italy. The Bank’s record indicates that the Account Owner held a demand deposit account.

The Bank’s record indicates that the account was opened on 10 October 1939 and closed on 16 July 1940. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank’s record that the Account Owner or her heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The name of Claimant [REDACTED 1]’s and Claimant [REDACTED 2]’s mother matches the published name of the Account Owner. Claimant [REDACTED 1] indicated that his mother travelled to Milan on business, which is consistent with unpublished information about the Account Owner’s address contained in the Bank’s record.

Additionally, the CRT notes that the name Rosa Rubin appears 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”). The CRT further notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Rosa and [REDACTED], prior to the publication of the ICEP List, and that Claimant [REDACTED 2] filed an IQ which contains information consistent with that provided by Claimant [REDACTED 1] and which identifies Claimant [REDACTED 1] as her brother. This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relatives, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information

provided by the Claimants. In addition, the CRT notes that the other claims to this account were disconfirmed because those claimants were not able to demonstrate a connection to the city and country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, was deported to the Hatvan ghetto in Hungary in April 1944, and was subsequently deported to Auschwitz, where she was killed.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information demonstrating that the Account Owner was the their mother.

The CRT further notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 2] filed an IQ with the Court in 1999, indicating that Claimant [REDACTED 1] was her brother. The CRT further notes that Claimant [REDACTED 1] also identified information which matches information contained in the Yad Vashem records. The CRT further notes that Claimant [REDACTED 1] submitted a copy of his passport, which provides independent verification that he bears the same last name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimants as a family member, and all this information supports the plausibility that the Claimants are related to the Account Owner, as Claimant [REDACTED 1] 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 the deportation and death of the Account Owner as a result of Nazi persecution; that there is no record of the payment of the Account Owner's account to her; that the Account Owner's heirs would not have been able to obtain information about her 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 her 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 claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their mother. Third, 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

In this case, the Account Owner held 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”). 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 26,750.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner’s spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is the son of the Account Owner, and Claimant [REDACTED 2] the daughter. Accordingly, as the descendants of the Account Owner, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total 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
18 November 2004