

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

and [REDACTED 3]

and to the Estate of Claimant [REDACTED 4]¹

in re Account of Adolf Sandig

Claim Numbers: 209967/TC, 209544/TC, 773933/TC, 774042/TC²

Award Amount: 94,441.63 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”), [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”), and [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) (together the “Claimants”) to the unpublished account of Adolf Sandig (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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.

¹ On 21 June 2006, Claimant [REDACTED 3] (“Claimant [REDACTED 3]”), the sister of Claimant [REDACTED 4] (“Claimant [REDACTED 4]”) informed the CRT that Claimant [REDACTED 4] passed away on 23 August 2003.

² Claimant [REDACTED 3] and Claimant [REDACTED 4] did not submit Claim Forms to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQ”), numbered ENG-0140162 and ENG-0144198, respectively, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers 773933 and 774042, respectively.

Information Provided by the Claimants

The Claimants, who are cousins, submitted substantially similar Claim Forms and Initial Questionnaires identifying the Account Owner as their uncle, Dr. Adolf Sandig, who was born on 10 August 1885 in Jaroslav, Austria (now the Czech Republic), and was married to [REDACTED], née [REDACTED], in 1953 in New York, New York, the United States. The Claimants explained that their uncle, who was Jewish, had two brothers: [REDACTED] (the father of Claimant [REDACTED 2] and Claimant [REDACTED 1]), and [REDACTED] (the father of Claimant [REDACTED 3] and Claimant [REDACTED 4]), and four other siblings who perished in the Holocaust. The Claimants indicated that their uncle was a practicing attorney who resided at Schottenfeldgasse 47 in Vienna, Austria, but that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), he fled to Havana, Cuba, and eventually emigrated to New York in 1941, where he lived until his death in 1955. The Claimants indicated that their uncle had no children, and that they are his only surviving heirs.

The Claimants indicated that their uncle held a Swiss bank account, and that neither he nor his heirs closed the account, but that when the Claimants inquired with the Bank regarding their uncle's account, they were informed that the account had been closed. The Claimants submitted a copy of a cancelled postal check, described in detail below.

Claimant [REDACTED 1] and Claimant [REDACTED 2] also submitted a copy of a court order concerning the probate of their uncle's will, indicating that Adolph Sandig died in New York in 1955 and that his heirs were [REDACTED 1] (Claimant [REDACTED 1]) and [REDACTED 2] (Claimant [REDACTED 2]). The Claimants indicated, however, that they are all heirs of their uncle's estate, and in a telephone conversation with the CRT on 20 June 2006, Claimant [REDACTED 1] stated that her cousins, Claimant [REDACTED 3] and Claimant [REDACTED 4], also received a portion of their uncle's estate upon his death, although she was unable to locate an inheritance document indicating this.

Claimant [REDACTED 1] indicated that she was born on 13 October 1928 in the Bronx, New York. Claimant [REDACTED 2] indicated that she was born on 8 September 1930 in New York. Claimant [REDACTED 3] indicated she was born on 17 July 1921 in Vienna. Claimant [REDACTED 4] indicated that she was born on 10 November 1917.

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 Adolf Sandig during their investigation of the Bank.³ The Bank's record was obtained by the

³ The CRT notes an account belonging to Adolf Sandig was identified as a result of matching and research carried out at the Bank and using, the Total Accounts Database (“TAD”) at the Bank. That account was opened on 30 March 1938. Because the funds in the account addressed in this Award were transferred to the Bank on 8 March 1938, the CRT has concluded that the Account Owner owned two separate accounts, one opened on 8 March 1938 (demonstrated by the documents submitted by the Claimants and discussed *supra*), and one opened on 30 March

Claimants, who forwarded it to the CRT. According to this record, a cancelled postal check, the Account Owner was Dr. Adolf Sandig, an attorney (“*Rechtsanwalt*”), who resided in Vienna. The postal check is dated 8 March 1938 and indicates that 7,555.33 Swiss Francs (“SF”) was transferred to the Bank to an account of unknown type via the Zurich office of postal checks (“*Postcheckamt*”).

The Bank’s record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account on the date of its closure. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Adolf Sandig, numbered 27930. These records indicate that Adolf Sandig, born on 10 August 1884, was an attorney and resided in Vienna at Schottenfeld Strasse 46 and later, Neue Weltgasse 23. These records further indicate that Adolf Sandig reported assets totaling 23,450.00 Reichsmark (“RM”) as of 25 December 1938. These records make no mention of assets held in a Swiss bank account.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

1938 (evidenced in records from the TAD). The TAD at the Bank is one of several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks, are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution. In a previous decision, the CRT awarded the Claimants’ claims to this account. See *In re Account of Adolf Sandig* (approved on September 25, 2006).

The Claimants' uncle's name, city of residence, and professional title match the unpublished name, city of residence, and professional title of the Account Owner on the cancelled check they submitted.

In support of their claims, the Claimants submitted a copy of a cancelled postal check, and Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted a copy of a court order concerning the probate of their uncle's will, providing independent verification that the person who is claimed to be the Account Owner had the same name, title, and resided in the same town recorded in the Bank's record as the name, title, and city of residence of the Account Owner.

The CRT notes that there are no other claims to this account. 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. The Claimants stated that the Account Owner was Jewish, and that he fled Nazi-controlled Austria in 1938 for Havana, ultimately reaching the United States, where he resided until his death in 1955.

The Claimant's Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' uncle. These documents include their uncle's probate documents, which indicate that the heirs of Adolph Sandig's estate were [REDACTED 1] (Claimant [REDACTED 1]) and [REDACTED 2] (Claimant [REDACTED 2]).

The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that the Claimants submitted a copy of a cancelled postal check. The CRT notes that it is plausible that this document is a document, which most likely only a family member would possess. 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 of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

Given that the Account Owner fled Nazi-controlled Austria in 1938; 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 (a), (h), and (j) as provided in Article 28 of the Rules (see Appendix A and C), 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, the Claimants have plausibly demonstrated that the Account Owner was their uncle, 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 account of unknown type. The postal check provided by the Claimants indicates that SF 7,555.33 was transferred into the account on 8 March 1938. The current value of the amount of the award is determined by multiplying the historic value 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 94,441.63.

Division of the Award

According to Article 23(2)(a) of the Rules, if a Claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted a copy of their uncle's probate document, which identifies the heirs of Adolph Sandig's estate as [REDACTED 1] (Claimant [REDACTED 1]) and [REDACTED 2] (Claimant [REDACTED 2]).

In this case, however, the Claimants have indicated they are all heirs of their uncle's estate, and in a telephone conversation with the CRT on 20 June 2006, Claimant [REDACTED 1] indicated that her cousins, Claimant [REDACTED 3] and Claimant [REDACTED 4], also received a portion of their uncle's estate upon his death, although she was unable to locate an inheritance document attesting to this fact.

In applying the Rules of Distribution, according to Article 27 of the Rules, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 2], the only named beneficiaries in Adolph Sandig's probate document, have indicated in their claim forms that their cousins Claimant [REDACTED 3] and Claimant [REDACTED 4] are also heirs of their uncle's estate. The CRT therefore concludes, pursuant to Article 27(1), that the most fair and equitable solution is to distribute the award amount to the Claimants in accordance with Article 23 of the Rules. According to Article 23(1)(d), if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.

Accordingly, each Claimant is entitled to a one-quarter share 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
9 November 2006