

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Rosa Seligmann

Claim Number: 777374/WT¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Dorothea Seligmann and Max Seligmann.² This Award is to the published account of Rosa Seligmann (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

The Claimant submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her mother, Rosa Seligmann, who married [REDACTED] and lived in Germany. The Claimant stated that her mother, who was Jewish, applied with her husband in 1935 or 1936 for entry into Switzerland to escape Nazi persecution, but their application was denied.

The Claimant indicated that she lived at 8 Breitenfelderstrasse in Hamburg, Germany, with her paternal grandmother, [REDACTED], née [REDACTED], who was born in 1875. According to the Claimant, in December 1938 she escaped to England as part of the *Kindertransport*, but that her grandmother perished in Bergen-Belsen or Buchenwald. The Claimant stated that her

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0284-008, 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 IQs 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 777374.

² The CRT did not locate an account belonging to Dorothea Seligmann or Max Seligmann in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

grandmother and her mother both held Swiss bank accounts, and that in the 1950s her mother was able to close only one of the family's Swiss bank accounts, from which the Bank had taken most of the money in order to satisfy maintenance fees. The Claimant indicated that she was born on 8 July 1926.

Information Available in the Bank's Record

The Bank's record consists of a list of dormant accounts, dated 11 February 1949. According to this record, the Account Owner was *Frau* (Mrs.) Rosa Seligmann. The Bank's record does not indicate the Account Owner's domicile.

The Bank's record indicates that the Account Owner held one account, the type of which is not indicated. The Bank's record indicates that the account was open by 1938, and its balance on 11 February 1949 was 881.00 Swiss Francs ("SF").

The Bank's record does not show when the account at issue was closed, although a hand-written annotation indicates that the account was closed on an unspecified date. The amount in the account on the date of its closure is unknown. 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") indicated that there was no evidence of customer contact on this account after 1945. 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 Claimant's mother's name matches the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name.

The CRT notes that the name Rosa Seligmann 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 the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Dorothea Seligmann and Max Seligmann, prior to the publication of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

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 was Jewish, that she resided in Nazi Germany, and that in 1935 or 1936 she and her husband applied for entry into Switzerland to escape Nazi persecution, and were denied.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner is the Claimant's mother. The CRT further notes that the Claimant filed an Initial Questionnaire 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. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The CRT notes that the Claimant stated that her mother was able to close only one of the family's Swiss bank accounts, although most of that account had been diminished by fees. It is not clear from the Bank's records whether this account, referenced by the Claimant, is the same as that indicated in the Bank's records and the subject of this Award. In the absence of evidence to the contrary, the CRT treats the account evidenced in the Bank's records as a separate and distinct account as that referenced by the Claimant.³

Given that there is no record of the payment of the Account Owner's account to her, nor any date of closure recorded in the bank records; that the Account Owner and her 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.

³ Should the Claimant be able to provide documentary evidence regarding her mother's previous closure of another account that had been diminished by fees, the CRT will examine that evidence to determine whether an additional award amount for that account is appropriate.

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 mother, and that relationship justifies an Award. 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 account, the type of which is not indicated. The Bank's records indicate that the value of the account as of 11 February 1949 was SF 881.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 75.00, which reflects standardized bank fees charged to the account between 1945 and 1949. Consequently, the adjusted balance of the account at issue is SF 956.00. According to Article 29 of the Rules, if the amount in an account of unknown type is less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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, to produce a total award amount of SF 49,375.00.

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
12 October 2007