

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED 2] and [REDACTED 3]

in re Accounts of Rosa Sussmann

Claim Numbers: 707864/AC; 707956/AC²

Award Amount: 296,350.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the accounts of Sigmund (Selig) Vamos.³ This Award is to the unpublished accounts of Rosa Sussmann (the “Account Owner”), over which Sigmondo Vamos (“Power of Attorney Holder S. Vamos”), Ferdinand Vamos (“Power of Attorney Holder F. Vamos”) and Rudy Sussmann (“Power of Attorney Holder Sussmann”) (together the “Power of Attorney Holders”) held power of attorney, at the Geneva 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 two Initial Questionnaires (“IQs”) identifying Power of Attorney Holder S. Vamos as his maternal grandfather, Sigmund Vamos, and identifying Power of Attorney Holder F. Vamos as his maternal uncle, Ferdinand Vamos. In a telephone conversation with the CRT on 27 October 2004, the Claimant identified the Account Owner as his maternal aunt, Rosa Sussmann, née Vamos, who was born in approximately 1907 in Stavropol, Russia, and was married to Dr. [REDACTED] in the 1930s in Milan, Italy. According to the Claimant and his cousins, [REDACTED 2] and [REDACTED 3], who are represented in this claim and who spoke

¹ In an email to the CRT dated 28 February 2005, [REDACTED 2] informed the CRT that [REDACTED 1] had died.

² [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted two Initial Questionnaires (“IQs”), numbered FRE-0021195 and FRE-0024054, 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 707864 and 707956, respectively.

³ The CRT will treat the claim to the accounts of Sigmund (Selig) Vamos in a separate determination.

with the CRT on 28 October 2004, their aunt, who was Jewish, was from a large family, and had many siblings, including: [REDACTED] (who was the Claimant's mother), [REDACTED] (or [REDACTED]) (who was the mother of [REDACTED 2] and [REDACTED 3]), and [REDACTED]. The Claimant explained that the siblings were the children of Sigmund Vamos and [REDACTED], née [REDACTED].

According to information provided by the Claimant, his aunt met her husband, Dr. [REDACTED] in Italy, and they were married and resided in Milan, where Dr. [REDACTED] opened a medical practice, having been forced to flee his native Germany after the Nazis rose to power. The Claimant indicated that during the Second World War, [REDACTED] fled to the United States; that [REDACTED], née [REDACTED], perished with her husband in Auschwitz, but their children, [REDACTED 2] and [REDACTED 3], were saved by nuns; that [REDACTED] and one of his sons were murdered by the Nazis in Auschwitz; and that the Claimant was imprisoned in Auschwitz, where his father and brother perished. [REDACTED 2] and [REDACTED 3] stated that [REDACTED] and Rosa Sussmann emigrated to the United States, where they became legal guardians of [REDACTED 2] and [REDACTED 3], who lived with them for a period of time after having lost their parents in the Holocaust. [REDACTED 2] added that the Sussmanns later moved to Lugano, Switzerland. The Claimant stated that [REDACTED] and Rosa Sussmann, who had no children, both passed away in Lugano, in 1987 and 1989, respectively. The Claimant indicated that he and his two cousins, [REDACTED 2] and [REDACTED 3], are the only surviving members of the family.

The Claimant submitted documents in support of his claim, including 1) a letter from [REDACTED] to *Bankhaus Hans & Co.* in Geneva, Switzerland, dated 9 October 1939, instructing that bank to release his credit line to his son, [REDACTED]; 2) a copy of a letter written on the printed letterhead of [REDACTED] and [REDACTED] of Fiume, Italy, dated 6 February 1941, referring to family members named [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]; 3) excerpts from *Il Libro Della Memoria*, a book listing Holocaust victims from Italy, indicating that [REDACTED], née [REDACTED], [REDACTED], [REDACTED], née [REDACTED], [REDACTED], and [REDACTED] all died while interned in concentration camps, that [REDACTED 1] and [REDACTED] were liberated from Auschwitz, that [REDACTED 1] was the son of [REDACTED] and [REDACTED], that [REDACTED] was the daughter of [REDACTED], and that family members resided in Fiume, Milan, and other cities in Italy; 4) copies of correspondence between the Claimant and the Contact Office for the Search of Dormant Accounts Administered by Swiss Banks (the "Contact Office") dated in 1997, regarding the Claimant's inquiry regarding accounts belonging to Sigismondo (Sigmund) Vamos, with a copy of a check for 100.00 Swiss Francs ("SF") from the Claimant to cover the research fees; and 5) copies of correspondence between the Claimant, his attorney, and the Swiss embassy in Italy, all dated in 1999, concerning the Claimant's inquiry regarding Swiss bank accounts held by his relatives.

The Claimant indicated that he was born on 6 August 1923 in Budapest, Hungary. The Claimant is representing his cousins, [REDACTED 2] and [REDACTED 3], née [REDACTED], who were born in Fiume on 1 May 1938 and 16 December 1936, respectively.

Information Available in the Bank's Records

The Bank's records submitted by 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") consist of a customer card and printouts from the Bank's database. According to these records, the Account Owner was *Mme.* (Mrs.) Rosa Sussmann, née Vamos, who resided at Via C. Battisti 1 in Milan, Italy. Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about the Account Owner's assets ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These records consist of another customer card and a signature sample card.

The Bank's records indicate that the Account Owner held one custody account and two demand deposit accounts, one in Swiss Francs and one in United States Dollars, all numbered 70239. These accounts were opened on 9 September 1938 through a transfer of approximately 2,200.00 Swiss Francs ("SF"). The Bank's records indicate that the Account Owner granted power of attorney over these accounts to her father, Sigmondo Vamos, and to her brother, Ferdinand Vamos, and that she instructed the Bank to hold correspondence. The Bank's records further indicate that the custody account and the demand deposit account in United States Dollars were closed on 12 April 1939, and that the demand deposit account in Swiss Francs was closed some time before that date. The values of the accounts on the date of their closure are not known.

The Bank's records also indicate that the Account Owner also held three demand deposit accounts, one in Swiss Francs, one in United States Dollars, and one in Pound Sterling, all numbered 70240. The Bank's records indicate that the accounts were opened on 6 September 1938. The Bank's records further indicate that the Account Owner granted power of attorney over these accounts to her husband, Rudy Sussmann, and that she instructed the Bank to hold correspondence. According to the Bank's records, the demand deposit account in United States Dollars was closed on 12 April 1939 and the other two demand deposit accounts were closed some time before that date. The values of the accounts on the date of their closure are not known.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 two claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holders. The Claimant's aunt's name, city and country of residence match the unpublished name, city and country of residence of the Account Owner. The Claimant's grandfather's and uncles' names match the unpublished names of the Power of Attorney Holders. Additionally, the Claimant identified the relationships between the Account Owner and the Power of Attorney Holders, which also match unpublished information about the Account Owner contained in the Bank's records.

The CRT notes that the Claimant filed IQs with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Power of Attorney Holder S. Vamos, and corresponded with the Swiss banking authorities inquiring about accounts held by his grandfather prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his 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 his relative, but indicates that the Claimant had reason to believe that his relatives owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner, and was also unable to identify the Power of Attorney Holders.

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, and that she resided in Nazi-allied Italy. The Claimant also stated that the Account Owner's father, brother, sister, and nephew perished in Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's aunt. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; that the Claimant filed two IQs with the Court in 1999, identifying the relationship between Power of Attorney Holder S. Vamos and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT also notes that the Claimant submitted a copy of a letter from [REDACTED] to *Bankhaus Hans & Co.*, and excerpts from *Il Libro Della Memoria*, which provide independent verification that the Claimant's relatives bore the same last name as the Account Owner, and that they resided in Milan. 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 Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the

Account Owner, as he has asserted in his IQs. There is no information to indicate that the Account Owner has surviving heirs other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the Account Owner held six accounts, which were closed on or before 12 April 1939.

The CRT notes that for the purposes of the ICEP Investigation, the date of Axis occupation of Italy is taken as 10 June 1940. However, because Italy formed an alliance with Germany on 25 October 1936, it is considered that from this date there existed the possibility of oppression. Accordingly, an account closed between 25 October 1936 and 10 June 1940 will only be considered as closed prior to Axis occupation if there is evidence that the account was paid to the account owner or an authorized party. In this case, the Bank's documents record only the closure dates of the accounts. Accordingly, given that there is no record of the payment of the Account Owner's accounts to her; that the Account Owner and her heirs would not have been able to obtain information about her accounts 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holders, or their 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 his aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and five demand deposit accounts. 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 SF 13,000.00 and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 23,700.00. 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 an amount of SF 296,250.00.

Furthermore, the CRT notes that the Claimant paid a fee of SF 100.00 to the Contact Office. The CRT determines that it is appropriate that the Claimant be reimbursed for this payment.

Consequently, the total award amount is SF 296,350.00.

Division of the Award

According to Article 23(1)(d) of the Rules, 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. In this case, the Claimant is representing [REDACTED 2] and [REDACTED 3], who are his maternal cousins and the children of his maternal aunt [REDACTED], née [REDACTED]. Accordingly, the Claimant is entitled to one-half of the total value of the accounts, as well as the SF 100.00 fee he paid to the Contact Office, or SF 148,225.00, and [REDACTED 2] and [REDACTED 3] are each entitled to one-quarter of the total value of the accounts, or SF 74,062.50 each.

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 his claims 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
6 May 2006