

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3]
and [REDACTED 4],

and to Claimant [REDACTED 5]
also acting on behalf of [REDACTED 6]

in re Account of Rosa Winkler

Claim Numbers: 206579/TW; 601317/TW;¹ 220757/TW; 220758/TW; 221901/TW;
220531/TW²

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the unpublished accounts of [REDACTED] and [REDACTED],³ the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the published accounts of Rosa Winkler, and the claim of

¹ Claimant [REDACTED 1] submitted a claim, numbered B-00311Y, on 24 November 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department to the accounts of [REDACTED] and [REDACTED]. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601317. In 1999, Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) numbered ENG 0361 126 to the account of [REDACTED], 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 is being treated under the consolidated claim number 601317.

² Claimant [REDACTED 5] submitted two Claim Forms, which are registered under the Claim Numbers 220531 and 221901. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 220531. Claimant [REDACTED 5] and Claimant [REDACTED 2] were awarded the account of [REDACTED] on 28 July 2004.

³ The CRT did not locate an account belonging to [REDACTED] or [REDACTED], 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”). Claimant [REDACTED 1] should be aware that the CRT will carry out further research on his claims to determine whether an award may be made based upon the information provided by Claimant [REDACTED 1] or upon information from other sources.

[REDACTED 5] (“Claimant [REDACTED 5]”) to the published account of [REDACTED]⁴ (together “the Claimants”). This Award is to the published account of Rosa Winkler (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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his great-uncle’s wife, Rosa Winkler, née Scheer, who was born on 12 March 1875. Claimant [REDACTED 1] stated that Rosa Scheer married [REDACTED] in Vienna, Austria, and that the couple had two children: [REDACTED], who was born on 21 May 1899, and [REDACTED], who was born on 26 May 1901. Claimant [REDACTED 1] indicated that [REDACTED] was a hairdresser, and that the family lived in Vienna.

Claimant [REDACTED 1] stated that [REDACTED]’s hairdressing salon was confiscated by the Nazis and that [REDACTED] and Rosa Winkler, who were Jewish, were deported to Theresienstadt, and that they never returned. According to Claimant [REDACTED 1], [REDACTED] died on 21 May 1899 and the fate of [REDACTED] is unknown.

In support of his claim, Claimant [REDACTED 1] submitted documents, including a document regarding the forced sale of [REDACTED]’s business, a letter from the city council of Vienna describing the fate of [REDACTED] and Rosa Winkler, and his own birth certificate, indicating the family name “Winkler” and that he was born on 25 April 1924 in Budapest, Hungary.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her paternal grandmother, Rosa Winkler, née Schwarzhaupt, who was born on 16 September 1878 in Munich, Germany. Claimant [REDACTED 2] stated that Rosa Schwarzhaupt married [REDACTED] on 9 October 1901 in Munich and that the couple had three children: [REDACTED], who was born in Eschwege, Germany, [REDACTED] (Claimant [REDACTED 2]’s father), who was born on 22 February 1910 in Eschwege, and [REDACTED], who was born in an unknown year, also in Eschwege.

Claimant [REDACTED 2] stated that [REDACTED] was a banker. The documents submitted by her indicate that [REDACTED] and his wife, Rosa, lived in Munich, Germany. Claimant [REDACTED 2] explained that her grandparents, who were Jewish, fled from Germany to Cuba in 1938, and then went on to settle in New York, the United States, where [REDACTED] died on

⁴ In a separate decision, Claimant [REDACTED 2] and Claimant [REDACTED 5] were awarded the account of [REDACTED]. See *In re Account of [REDACTED]*, approved on 28 July 2004.

10 January 1956 and Rosa Winkler died on an unknown date. According to Claimant [REDACTED 2], [REDACTED] died on 18 January 1993 in Great Neck, the United States, and [REDACTED] and [REDACTED], née [REDACTED], died on 12 June 2000 and an unknown date respectively in New York. According to Claimant [REDACTED 2], [REDACTED] had two children, [REDACTED 2] and [REDACTED 3]; [REDACTED] had two children, [REDACTED 5] and [REDACTED] (who died on an unknown date) and [REDACTED], née [REDACTED], had one child, [REDACTED 4].

In support of her claim, Claimant [REDACTED 2] submitted documents, including her grandparent's marriage certificate, indicating that they were married in Munich, on 9 October 1901; her father, [REDACTED]'s birth certificate indicating that he was born on 22 February 1910 and that his parents were Rosa Winkler and [REDACTED]; and her own birth certificate, indicating that she was born on 11 May 1955, and that her parents were [REDACTED] and [REDACTED].

Claimant [REDACTED 2] is representing her sister, [REDACTED 3], née [REDACTED], who was born on 14 October 1944 in Jerusalem, Palestine, and her cousin, [REDACTED 4], who was born on 14 March 1931.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted two Claim Forms identifying the Account Owner as his paternal grandmother, Rosa Winkler, née Schwartzhaupt. Claimant [REDACTED 5] stated that Rosa Schwartzhaupt married [REDACTED], and that his father, [REDACTED], was one of their sons. According to the information provided by Claimant [REDACTED 5], [REDACTED] was a managing director and shareholder of a bank named "*Gebrueder Schwartzhaupt*" that was located in Munich, Germany.

Claimant [REDACTED 5] explained that his grandparents, who were Jewish, fled from Germany to Merano, Italy, to escape Nazi persecution, and then went to Cuba. Claimant [REDACTED 5] stated that [REDACTED] and Rosa Winkler emigrated to the United States, and that they lived in New York. Claimant [REDACTED 5] explained that Rosa Winkler died in 1953 in New York, that [REDACTED] died in 1956 in New York, and that [REDACTED] died on 18 January 1993 in Great Neck, United States.

In support of his claim, Claimant [REDACTED 5] submitted documents, including his father's birth certificate, indicating that his father was born on 10 December 1905 and that his parents were [REDACTED] and Rosa Winkler; a marriage license, and a probate order to [REDACTED]'s estate. According to the probate order, [REDACTED]'s sole heir was his wife, [REDACTED 6].

Claimant [REDACTED 5] indicated that he was born on 9 February 1949 and that he represents his mother, [REDACTED 6], who was born on 8 April 1910.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database of collectivized accounts. According to this record, the Account Owner was Rosa Winkler. The domicile of the Account Owner is not indicated in this record. The Bank's record indicates that the Account Owner held a savings account that was opened in 1920.

The account was transferred to a collective account for dormant assets on 10 May 1978. The balance of the account on the date of transfer was 52.50 Swiss Francs ("SF").

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process (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 six claims of the Claimants in one proceeding. The CRT notes further that Claimant [REDACTED 2] and Claimant [REDACTED 5] are related.

Identification of the Account Owner

Claimant [REDACTED 1]'s great-aunt's name matches the published name of the Account Owner. Claimants [REDACTED 2] and [REDACTED 5]'s grandmother's name also matches the published name of the Account Owner. The CRT notes that the bank records do not contain any specific information about the Account Owner other than her name.

In support of her claim, Claimant [REDACTED 2] submitted her grandparents' marriage certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name as the name of the Account Owner recorded in the Bank's record.

In support of his claim, Claimant [REDACTED 5] submitted his father's birth certificate, indicating that his mother was Rosa Winkler, providing independent verification that the person who is claimed to be the Account Owner had the same name as the name of the Account Owner recorded in the Bank record.

The CRT notes that the name Rosa Winkler 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 notes that Claimant [REDACTED 1] filed an HCPO claim form in November 1997, asserting his entitlement to a Swiss bank account owned by [REDACTED], and an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by [REDACTED], prior to the publication of the ICEP List. This indicates that Claimant

[REDACTED 1] 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 rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2] and Claimant [REDACTED 5]'s relative are not the same person. However, given that the Claimants have identified all information about the Account Owner that is available in the Bank record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] and Claimant [REDACTED 5] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Each of the Claimants has made a plausible showing that the Account Owner was a Victim of Nazi Persecution.

Claimant [REDACTED 1] stated that his great-aunt, who was Jewish, was deported to Theresienstadt. Moreover, the CRT notes that a database containing the names of Victims of Nazi persecution includes a person named Rosa Winkler, and indicates that she lived in Vienna, Austria, which matches information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Claimant [REDACTED 2] and Claimant [REDACTED 5] stated that their grandmother was Jewish, and that she fled from Germany in 1938 to escape Nazi persecution.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographic information demonstrating that the Account Owner was the wife of Claimant Winkler's great-uncle.

Claimant [REDACTED 2] and Claimant [REDACTED 5]

Claimant [REDACTED 2] and Claimant [REDACTED 5] have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was their grandmother. Claimant [REDACTED 2] submitted her father, [REDACTED]'s birth certificate, indicating that his parents were

[REDACTED] and Rosa Winkler, and her birth certificate, indicating that her parents were [REDACTED] and [REDACTED].

Claimant [REDACTED 5] submitted a copy of a marriage license. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. The CRT further notes that Claimant [REDACTED 5] submitted a copy of his father's birth certificate, which provides independent verification that Claimant [REDACTED 5]'s relatives bore the same family 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 Claimant [REDACTED 5] as a family member, and all this information supports the plausibility that Claimant [REDACTED 5] is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to a collective account for dormant assets, where it remains.

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, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his great-aunt, and Claimant [REDACTED 2] and Claimant [REDACTED 5] have plausibly demonstrated that the Account Owner was their grandmother, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

The Bank's record indicates that the value of the account as of 10 May 1978 was SF 52.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 510.00 which reflects standardized bank fees charged to the account between 1945 and 1978. Consequently, the adjusted balance of the account at issue is SF 562.50. According to Article 29 of the Rules, if the amount in a savings account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. 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 10,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the Account Owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the

account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount and Claimant [REDACTED 2] and Claimant [REDACTED 5] are entitled to share the other half of the Award amount, in accordance with the principles of distribution set out in Article 23.

According to the principles of distribution set forth in Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, an Award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Claimant [REDACTED 2], [REDACTED 3], [REDACTED 4] (whom Claimant [REDACTED 2] represents) and Claimant [REDACTED 5] are the Account Owner's grandchildren. Accordingly, Claimant [REDACTED 2] and her sister, [REDACTED 3], née [REDACTED], whom she represents, as descendants of the Account Owner's son [REDACTED], are each entitled to one-twelfth of the total award amount. [REDACTED 4], who is represented by her cousin, Claimant [REDACTED 2], as a descendant of the Account Owner's daughter, [REDACTED], is entitled to one-sixth of the total award amount. Claimant [REDACTED 5], as a descendant of the Account Owner's son, [REDACTED], is entitled to one-sixth of the total award amount. [REDACTED 6], whom [REDACTED 5] is representing, is related to the Account Owner through marriage, and is accordingly not entitled to a share of the Award.

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
13 May 2005