

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
acting on behalf of [REDACTED 2] and [REDACTED 3]
represented by Erez Bernstein

in re Accounts of Hugo Reik and Anna Reik

Claim Numbers: 501241/AX; 501263/AX

Award Amount: 591,427.13 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] to the published accounts of Hugo Reik (“Account Owner Hugo Reik”) at the Zurich branch of the [REDACTED] (“Bank 1”)¹ and the published account of Anna Reik (“Account Owner Anna Reik”) (together, the “Account Owners”), over which Gustav Reik (“Power of Attorney Holder Gustav Reik”), Otto Reik (“Power of Attorney Holder Otto Reik”), and Valerie Reik (“Power of Attorney Valerie Reik”) (together, the “Power of Attorney Holders”) held power of attorney, at the Liebefeld branch of the [REDACTED] (“Bank 2”) (together, “the Banks”).

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 Claim Forms identifying the Account Owners as her great-great-uncle, Hugo Reik, who was born on 1 July 1879 in Prossnitz, Czechoslovakia (now Prostejova, Czech Republic), and was married to [REDACTED], née [REDACTED]; and her maternal grandmother’s cousin, Anna Reik, who was the daughter of her great-grandfather’s brother, Otto Reik, who was born on 2 November 1912 in Vienna, Austria. The Claimant indicated that Hugo Reik, who was Jewish, was a patent attorney and resided in Vienna at Wattmannngasse 15. The Claimant further indicated that Anna Reik, who was Jewish, resided with her father, Otto Reik, at Tigergasse 33/3 in Vienna and subsequently at Tuchlaubengasse 7 in Vienna. The Claimant

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Hugo Reik is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of five accounts.

indicated that Anna Reik fled Austria in 1938 and that Hugo Reik fled Austria in 1939 after the incorporation of Austria into the German Reich (the “*Anschluss*”).

In support of her claim, the Claimant submitted records from the Austrian State Archives pertaining to Hugo Reik and Otto Reik, indicating that Otto Reik and Gustav Reik were brothers; the birth certificate of her maternal grandmother, indicating that her name was [REDACTED], and that her father was Gustav Reik; the birth certificate of the Claimant’s mother, [REDACTED], indicating that her mother was [REDACTED]; the Claimant’s birth certificate indicating that her mother was [REDACTED]; an excerpt from the city registry of Prostejova, Czechoslovakia, indicating that Otto Reik, Gustav Reik, and Hugo Reik were brothers, and that Anna Reik was the daughter of Otto Reik. The Claimant indicated that she was born on 3 December 1970 in the United Kingdom. The Claimant is representing her mother, [REDACTED 2], née Hall, and her aunt, [REDACTED 3].

Information Available in the Banks’ Records

Bank 1

Bank 1’s record consists of a customer card. According to this record, Account Owner Hugo Reik was *Ing.* (Engineer) Hugo Reik, who resided in both Vienna and Brno, Czechoslovakia. This record indicates that Account Owner Hugo Reik was a patent attorney. According to this record, Account Owner Hugo Reik held one custody account, numbered 59095, and four demand deposit accounts, of which two were held in Swiss Francs (“SF”) and two in Pound Sterling. This record indicates that the custody account was closed on 29 July 1938, and the demand deposit accounts were closed on 20 April 1938, 10 May 1938, 20 June 1938, and 20 September 1938, respectively. The amounts in the accounts on their respective dates of closure are unknown. There is no evidence in Bank 1’s record that either Account Owner Hugo Reik or his heirs closed the accounts and received the proceeds themselves.

Bank 2

Bank 2’s records consist of a power of attorney form signed in Vienna on 5 March 1938, signature sample cards, and an acknowledgement of receipt of general terms and conditions applying to custody accounts. According to these records, Account Owner Anna Reik was *Frl.* (Miss) Dr. Anna Reik, and the Power of Attorney Holders were Dr. Otto Reik, *Frau* (Mrs.) Valerie Reik and Gustav Reik. Bank 2’s records indicate that Account Owner Anna Reik, Power of Attorney Holder Otto Reik and Power of Attorney Holder Valerie Reik all resided at Tigergasse 33 in Vienna VIII. Bank 2’s records further indicate that Power of Attorney Holder Gustav Reik resided at Queen Victoria Street 171 in London, England. According to these records, Account Owner Anna Reik held one custody account, numbered 4736.

Bank 2’s records do not indicate when the account was closed nor do these records indicate the value of the account. 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 find this account in Bank 2’s

system of open accounts, and they therefore presumed that it was were closed. There is no evidence in Bank 2's records that Account Owner Anna Reik, the Power of Attorney Holders or their heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

Hugo Reik

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 Hugo Reik, numbered 47409. According to these records, Ing. Dr. Hugo Reik, who was born on 1 July 1879, was a citizen of Czechoslovakia and was married to [REDACTED], née [REDACTED]. These records indicate that Hugo Reik was a patent attorney and resided at Wattmangasse 15 in Vienna XIII. These records further indicate that Hugo Reik owned a practice located at Kärntnerstrasse 27 (or Himmelpfortgasse 2), valued at 10,593.88 Reichsmark ("RM"). According to these records, Hugo Reik held liquid assets to the amount of SF 17,034.17 at Bank 1 as of 27 April 1938. These records further indicate that Hugo Reik was assessed "flight tax" (*Reichsfluchtsteuer*) of RM 47,972.00 on 3 November 1939, at which time Hugo Reik and his wife were residing in London, with a correspondence address in care of G. Reik at 171 Queen Victoria Street.

Otto Reik

In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Otto Reik, numbered 45185. According to these records, Otto Reik was born 15 October 1884 and married to Valerie Reik, née Back. These records indicate that he was an attorney and owned a law practice located at Tuchlauben 7a in Vienna. These records further indicate that he was residing in Thorpe Bay, Gloucester, England at the time his declaration was completed on 28 July 1938. Furthermore, these records indicate that his brother was Gustav Reik. 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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's great-great-uncle's name and country of residence match the published name and country of residence of Account Owner Hugo Reik. The Claimant's grandmother's cousin's name and city and country of residence match the published name and city and country of residence of Account Owner Anna Reik. The names of the Claimant's great-grandfather, his great-great-uncle and his great-great-aunt match the published names of the Power of Attorney Holders. The Claimant further identified her great-great-uncle's city of residence and profession which match unpublished information contained in Bank 1's records. The Claimant also identified his relatives' street addresses, which match unpublished information contained in Bank 2's records.

In support of her claim, the Claimant submitted documents, including the 1938 Census records pertaining to Hugo Reik and Otto Reik; and an excerpt from the city registry in Prostejova, indicating that Otto Reik, Gustav Reik, and Hugo Reik were brothers, and that Anna Reik was the daughter of Otto Reik, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same city recorded in the Banks' records as the names and city of residence of the Account Owners, and that the persons who are claimed to be the Power of Attorney Holders had the same names recorded in Bank 2's records as the names of the Power of Attorney Holders.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as a Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they both fled Austria after the *Anschluss*.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Hugo Reik was her great-great-uncle and Account Owner Anna Reik was her grandmother's cousin. These documents include the 1938 Census records pertaining to Hugo Reik and Otto Reik, indicating that Otto Reik and Gustav Reik were brothers; the birth certificate of her grandmother, indicating that her name was [REDACTED], and that her father was Gustav Reik; the birth certificate of her mother, [REDACTED], indicating that her mother was [REDACTED]; the Claimant's birth certificate indicating that her mother was [REDACTED]; and an excerpt from the city registry of Prostejova, indicating that Otto Reik, Gustav Reik, and Hugo Reik were brothers, and that Anna Reik was the daughter of Otto Reik. There is no information to indicate that the Account Owners have surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

With respect to Account Owner Anna Reik's custody account and Account Owner Hugo Reik's

custody account, given that the Account Owners fled Austria after the *Anschluss*; that there is no record of the payment of the Account Owners' custody accounts to them nor any record of a date of closure of Account Owner Anna Reik's custody account; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Banks 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 Owners, 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.

With respect to Account Owner Hugo Reik's four demand deposit accounts, the facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that Account Owner Hugo Reik reported his accounts at Bank 1 in the 1938 Census; that Account Owner Hugo Reik lived in Nazi-controlled Austria until after the *Anschluss* when he fled Austria, and therefore could not have repatriated the accounts without losing ultimate control over their proceeds; and given the application of Presumptions (d), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Hugo Reik or his heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of [REDACTED 2] and [REDACTED 3]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Hugo Reik was the great-uncle of [REDACTED 2] and [REDACTED 3] and Account Owner Anna Reik was the cousin of the mother of [REDACTED 2] and [REDACTED 3], and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts. Further, the CRT notes that the Claimant's mother, [REDACTED 2], and the Claimant's aunt, [REDACTED 3], who are closer in relationship to the Account Owners than the Claimant, have a better entitlement to the accounts than does the Claimant.

Amount of the Award

With respect to Account Owner Anna Reik and Account Owner Hugo Reik's custody 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. 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 award amount for the two custody accounts of SF 325,000.00.

With respect to Account Owner Hugo Reik's demand deposit accounts, the 1938 Census records indicate that the total value of the cash deposits held at Bank 1 as of 27 April 1938 was SF 17,034.17. The CRT notes that of the four demand deposit accounts held by Account Owner Hugo Reik, two were held in Swiss Francs, and the other two in Pound Sterling. Given that Account Owner Hugo Reik declared the value of his cash deposits in his 1938 Census form in Swiss Francs, the CRT determines that this value refers only to the value of the two demand deposit accounts held in Swiss Francs. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the award amount for the two deposit accounts held in Swiss Francs is SF 212,927.13.

With respect to the two demand deposit accounts held in Pound Sterling, 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 demand deposit account was SF 2,140.00, to produce a total 1945 value of SF 4,280.00 for two demand deposit accounts. 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 award amount of SF 53,500.00 for the two demand deposit accounts held in Pound Sterling.

Thus, the total award amount is SF 591,427.13.

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. Further, according to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. The Claimant represents her mother, [REDACTED 2], and her aunt, [REDACTED 3], who are the great-great-nieces of Account Owner Hugo Reik and the grandchildren of Account Owner Anna Reik's cousin. As noted above, the Claimant's mother and aunt are better entitled to the award than the Claimant. Accordingly, [REDACTED 2] and [REDACTED 3] are each entitled to one-half of the total award amount.

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 claims 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 May 2005