

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], represented by Claude Devillers,
and to [REDACTED 2],
also acting on behalf of [REDACTED 3]

in re Account of Julie Rosenau

Claim Numbers: 209236/MBC, 212686/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Julie Rosenau (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 1] has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as Julie Rosenau, the wife of Claimant [REDACTED 1]’s paternal uncle. Claimant [REDACTED 1] stated that Julie Rosenau was married to [REDACTED], who was born in approximately 1860, and that the couple did not have any children. Claimant [REDACTED 1] stated that Julie Rosenau, who was a French national, resided in Paris, France. According to Claimant [REDACTED 1], [REDACTED] died before the Second World War. Claimant [REDACTED 1] explained that Julie Rosenau, who was Jewish, fled from Paris to Switzerland, probably to Geneva, to escape Nazi persecution during the Second World War. According to Claimant [REDACTED 1], Julie Rosenau died in Switzerland. Claimant [REDACTED 1] could not specify Julie Rosenau’s date of death, but indicated that she may have died after the Second World War was over.

Claimant [REDACTED 1] submitted a family tree, according to which, [REDACTED] had a brother, [REDACTED], who is Claimant [REDACTED 1]’s father. In support of her claim, Claimant [REDACTED 1] submitted her family booklet indicating that she is the daughter of [REDACTED]. Claimant [REDACTED 1] indicated that she was born on 26 June 1909.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] filed a Claim Form identifying the Account Owner as her paternal great-uncle's wife, Julie Rosenau, née Ansbacher, who was born on 30 November 1869 in Fürth, Germany. Claimant [REDACTED 2] stated that Julie Ansbacher was married to [REDACTED] on 16 April 1893 in Paris, France. Claimant [REDACTED 2] stated that Julie and [REDACTED] did not have any children.

In a telephone conversation with the CRT on 8 January 2003, Claimant [REDACTED 2] stated that [REDACTED], who was a German national, worked in Paris where he and his wife lived until his death on an unknown date sometime between the First World War and the Second World War. Claimant [REDACTED 2] stated that Julie Rosenau was Jewish, and that she probably went to Switzerland to avoid Nazi persecution. Claimant [REDACTED 2] was unable to provide information about when or where Julie Rosenau died, and stated that almost all of their family, including Claimant [REDACTED 2]'s father, who possessed information about their relative, perished in the Holocaust, and the few who survived were unable to talk about that period. Claimant [REDACTED 2] indicated, however, that Julie Rosenau probably survived the Second World War in Switzerland.

According to the family tree provided by Claimant [REDACTED 2], [REDACTED] had two brothers: [REDACTED] (Claimant [REDACTED 1]'s father) and [REDACTED]. Claimant [REDACTED 2] indicated that [REDACTED] had one child, [REDACTED], and that [REDACTED] had two children, [REDACTED 2], née [REDACTED] (Claimant [REDACTED 2]), and [REDACTED 3].

In support of her claim, Claimant [REDACTED 2] submitted documents, including her birth certificate indicating that her father was [REDACTED]; her father's birth certificate showing that he was the son of [REDACTED]; a letter from the City Archive of Würzburg, Germany, dated 29 June 2001, indicating that [REDACTED], who was born on 9 January 1865, and [REDACTED], who was born on 18 August 1866, were sons of [REDACTED] and that they were Jewish; a letter from the City Archive of Fürth, Germany, dated 28 June 2001, indicating that Julie Ansbacher was married to [REDACTED]; and a French identity card of [REDACTED], showing that he was born on 18 August 1866, and that he resided in Paris during the Second World War.

Claimant [REDACTED 2] indicated that she was born on 13 March 1932 in Paris. Claimant [REDACTED 2] is representing [REDACTED 3], her brother, who was born on 2 September 1928 in Paris.

Information Available in the Bank's Record

The Bank's record consists of a list of accounts, dated 31 October 1945, held at the Bank when it was acquired by the [REDACTED] in 1945. According to this record, the Account Owner was

Julie Rosenau, who resided in Paris, France. The Bank's record indicates that the Account Owner held an account, numbered 30234, but does not indicate the type of the account.

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. 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 the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity 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

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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' relative's name and city and country of residence match the published name and city and country of residence 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 and city of residence.

Moreover, the CRT notes that in support of her claim, Claimant [REDACTED 2] submitted her father's and her own birth certificates, confirming that [REDACTED] was her grandfather; a letter from the Archive in Würzburg identifying [REDACTED] as the brother of [REDACTED]; and a letter from the Archive in Fürth identifying Julie Rosenau as the wife of [REDACTED], thus providing independent verification that her relative had the same name as the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Julie Rosenau Ansbacher, and indicates that her date of birth was 30 November 1869 and that she arrived in Switzerland as a refugee on 27 October 1942, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Finally, the CRT notes that there are no other claims to this account.

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 fled from Nazi-occupied France to Switzerland during the Second World War. As noted above, a person named Julie Rosenau was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents demonstrating that Claimant [REDACTED 2] is the Account Owner's husband's great-niece and Claimant [REDACTED 1] is the Account Owner's husband's niece. These documents include Claimant [REDACTED 2]'s and her father's birth certificates, letters from the Archives in Fürth and in Würzburg, and Claimant [REDACTED 1]'s family booklet. The CRT notes that while Claimant [REDACTED 1] did not provide documents demonstrating her relationship to the Account Owner, the documents provided by Claimant [REDACTED 2] and the information provided independently by both Claimants supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; 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, 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.

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 aunt and great-aunt by marriage, and those relationships justify an Award. Finally, 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 of unknown type. 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 present value of the account

being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present 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 a total award amount of 49,375.00 Swiss Francs.

Division of the Award

Claimant [REDACTED 2], who is representing her brother [REDACTED 3], is the grandchild of the Account Owner's brother-in-law, [REDACTED]. Claimant [REDACTED 1] is the daughter of the Account Owner's other brother-in-law, [REDACTED].

According to Article 23(1)(g) of the Rules, in absence of the Account Owner's will and if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In the present case no other relatives of the Account Owner submitted a claim to the CRT. Therefore, the CRT determines that each represented branch of the Account Owner's family is entitled to a one-half share of the award amount. Consequently, Claimant [REDACTED 1] is entitled to one-half of the award amount, and Claimant [REDACTED 2] and [REDACTED 3] are each entitled to one-quarter of the 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
28 May 2004