

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

and to Claimant [REDACTED 3]
also acting on behalf of [REDACTED 4], [REDACTED 5], and [REDACTED 6]

in re Account of Max Rosenheimer

Claim Numbers: 221350/CN; 221767/CN

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published account of Max Rosenheimer (the “Account Owner”) at the Diessenhofen 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 Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 3], who is Claimant [REDACTED 1]’s nephew, each submitted a Claim Form identifying the Account Owner as Claimant [REDACTED 1]’s father and Claimant [REDACTED 3]’s maternal grandfather, Max Rosenheimer, who was born on 3 March 1908 in Berlin, Germany, and married to [REDACTED], née [REDACTED], on 18 September 1942 in Montauban, France. The Claimants indicated that Max Rosenheimer, who was Jewish, was married to [REDACTED] and that they had three children: Claimant [REDACTED 1]; [REDACTED 2], née Rosenheimer; and [REDACTED], née [REDACTED] (Claimant [REDACTED 3]’s late mother).

The Claimants indicated that their relative was an engineer and director of several companies. In a letter dated 21 January 2006, Claimant [REDACTED 1] indicated that her father worked for a firm in Berlin, but that he left his job in 1930 and found work with another firm, which transferred him to France to direct a branch office. Claimant [REDACTED 1] explained that her father started his own firm called *Gema*, which had offices on the outskirts of Paris, France (*banlieue de Paris*), and in Lille, France. Claimant [REDACTED 1] stated that her father was

able to start his business after receiving a loan from his mother, [REDACTED], née [REDACTED], who came from a wealthy family and had cousins living in Schaffhausen, Switzerland. In her letter to the CRT, Claimant [REDACTED 1] surmised that her father may have opened a Swiss bank account for the purpose of repaying the loan from his mother. According to Claimant [REDACTED 1], her father's firm, which had thirty-five employees, was confiscated during the Second World War. Claimant [REDACTED 1] reported that her father was able to survive the War by fleeing to southern France.

According to the Claimants, Max Rosenheimer resided in Montauban until 1947, when he moved to Chatenay-Malabry, France, near Paris. Claimant [REDACTED 1] indicated that her father's mother was deported to Theresienstadt, and that she perished in a concentration camp. The Claimants indicated that Max Rosenheimer, who became a French citizen in 1945, died in Paris on 19 November 1999. The Claimants further indicated that [REDACTED], née [REDACTED], died on 30 December 1999, also in Paris.

The Claimants submitted documents in support of their claims, including: (1) Claimant [REDACTED 1]'s birth certificate, indicating that [REDACTED 1] was born to Max Rosenheimer and [REDACTED]; (2) extracts from [REDACTED]'s family book (*livret de famille*), indicating that [REDACTED]'s father was Max Rosenheimer and that her children are [REDACTED 3], [REDACTED 4], [REDACTED 5], and [REDACTED 6], and that [REDACTED] passed away on 30 December 1990; (3) the death certificates of Max and [REDACTED], both dated in 1999, indicating that they resided in Paris; and (4) the inheritance certificates of Max and [REDACTED], both dated in 2000, indicating that he and his wife resided in Paris and that Max Rosenheimer's heirs were: his two surviving daughters [REDACTED 2] and Claimant [REDACTED 1]; and the children of his deceased daughter [REDACTED], namely, Claimant [REDACTED 3], [REDACTED 4], [REDACTED 5], and [REDACTED 6]. This declaration of inheritance provides that his daughters [REDACTED 2] and [REDACTED 1] were each to receive one-third of his estate, and his grandchildren [REDACTED 4], [REDACTED 5], and [REDACTED 6], and [REDACTED 3] were to each receive one-twelfth.

Claimant [REDACTED 1] indicated that she was born on 23 October 1947 in Chatenay-Malabry. Claimant [REDACTED 1] is representing her sister, [REDACTED 2], who was born on 22 April 1944 in Annecy, France. Claimant [REDACTED 3] indicated that he was born on 21 November 1980 in Challans, France. Claimant [REDACTED 3] is representing his siblings, [REDACTED 4], who was born on 6 July 1974 in Strasbourg, France; [REDACTED 5], who was born on 7 April 1976, also in Strasbourg; and [REDACTED 6], who was born on 8 May 1978 in Mulhouse, France.

Information Available in the Bank's Record

The Bank's record consists of an extract from a registry of account owners at the Bank. According to this record, the Account Owner was Max Rosenheimer, who resided in Paris. The Bank's record indicates that the Account Owner held a demand deposit 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. The Bank’s record does not indicate the value of the account. There is no evidence in the Bank’s record that the Account Owner or his 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 name and country of residence of Claimant [REDACTED 1]’s father and Claimant [REDACTED 3]’s grandfather match the published name and country of residence of the Account Owner. Claimant [REDACTED 1] stated that her father opened his own business, which had offices in the outskirts of Paris, which is identified in the Bank’s record as the Account Owner’s city of residence.

In support of their claims, the Claimants submitted documents, including Claimant [REDACTED 1]’s birth certificate, and the death and inheritance certificates of Max and [REDACTED], providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank’s record as the name and country of residence of the Account Owner. The CRT notes that the name Max Rosenheimer 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 CRT further notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

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 indicated that the Account Owner was Jewish, a German national, and that he resided in France during the Second World War. Claimant [REDACTED 1] also stated that the Account Owner’s business was confiscated. Claimant [REDACTED 1] further

indicated that Max Rosenheimer's mother was deported to Theresienstadt and that she perished in a concentration camp.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the father of Claimant [REDACTED 1] and represented party [REDACTED 2] and the grandfather of Claimant [REDACTED 3] and represented parties [REDACTED 4], [REDACTED 5], and [REDACTED 6]. These documents include Claimant [REDACTED 1]'s birth certificate, the family book of the late [REDACTED], and the inheritance certificates of Max and [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs other than the parties whom the Claimants are representing.

The Issue of Who Received the Proceeds

Given that it would have been difficult or impossible for the Account Owner, who lived in hiding during the Second World War, to access his account during the War; that other assets belonging to the Account Owner were confiscated; that there is no record of activity on the account after the end of the War, nor any record of either payment of the Account Owner's account to him or a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his 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 (see appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, or his 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 and the parties they represent. 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 the father of Claimant [REDACTED 1] and represented party [REDACTED 2] and the grandfather of Claimant [REDACTED 3] and represented parties [REDACTED 4], [REDACTED 5], and [REDACTED 6], and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. 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 2,140.00 Swiss Francs (“SF”). 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 a total award amount of SF 26,750.00.

Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner’s will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. The Account Owner’s declaration of inheritance provides that his daughters [REDACTED 2] and [REDACTED 1] were each to receive one-third of his estate, and his grandchildren [REDACTED 4], [REDACTED 5], and [REDACTED 6], and [REDACTED 3] were to each receive one-twelfth. Accordingly, Claimant [REDACTED 1] and represented party [REDACTED 2] are each entitled to one-third of the total award amount and Claimant [REDACTED 3], represented party [REDACTED 4], represented party [REDACTED 5], and represented party [REDACTED 6] are each entitled to one-twelfth of the total 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
31 August 2007