

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]

to Claimant [REDACTED 3]

and to Claimant [REDACTED 4]

in re Account of Max Roth

Claim Numbers: 205751/AX; 204279/AX; 788044/AX;¹ 752538/AX^{2,3}

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Max Roth, the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) to accounts of Max Roth and Martin Roth, the claim of [REDACTED 4], née [REDACTED] (“Claimant [REDACTED 4]”) to accounts of Max Roth and [REDACTED], and the claim of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together, the “Claimants”) to accounts of [REDACTED], [REDACTED], and [REDACTED].⁴ This Award is

¹ Claimant [REDACTED 4] (“Claimant [REDACTED 4]”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0697-109, 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 has been assigned claim number 7788044.

² Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) did not submit a CRT Claim Form. However, in 1998 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-BUD-C-70-498-104-348, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 752538.

³ Claimant [REDACTED 3] submitted two additional claims, which are registered under the Claim Numbers 752539 and 752540. The CRT will treat these claims in separate determinations.

⁴ The CRT will treat the claims to the accounts of [REDACTED], [REDACTED], [REDACTED], and [REDACTED] in separate determinations.

to the published account of Max Roth (the “Account Owner”) at the Biel 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]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father, Max (Miksa) Rosti, formerly Roth, who was born on 25 March 1889 in Budapest, Hungary, and was married to [REDACTED], née [REDACTED], on 4 February 1920 in Budapest. According to Claimant [REDACTED 1], his father was a businessman, and the Counselor of the Royal Hungarian Exchequer, the Vice President of the National Association of Industrialists, and the Chief Executive Officer of a manufacturing company. Claimant [REDACTED 1] indicated that his father was forced to retire in 1939 because of anti-Jewish legislation, and, in 1944, the Nazis forced him to perform slave labor and deported him to a concentration camp. Claimant [REDACTED 1] explained that his father survived the concentration camp, that he changed his surname from Roth to Rosti on 23 June 1945. Claimant [REDACTED 1] indicated that his father eventually emigrated to San Francisco, California, the United States, where he resided until his death on 21 February 1977. In support of his claim, Claimant [REDACTED 1] submitted his father’s birth certificate, indicating that he was born Miksa Roth, a certificate of name change, indicating that Claimant [REDACTED 1]’s father changed his family name from Roth to Rosti, and his father’s will, indicating that Claimant [REDACTED 1] is the son of Max Rosti. Claimant [REDACTED 1] indicated that he was born on 29 September 1927 in Budapest.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Max Roth.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her father, Max Zelmanovic, formerly Roth, who was born in Czechoslovakia, and was married to [REDACTED] on 26 November 1945 in Czechoslovakia. According to Claimant [REDACTED 2], her father, who was Jewish, was a successful businessman who owned several businesses, including restaurants and livestock trading companies. Claimant [REDACTED 2] explained that the Nazis forced her father to perform slave labor during the Second World War. Claimant [REDACTED 2] explained that his father changed his surname to Zelmanovic, his mother’s maiden name, after the War. Claimant [REDACTED 2] indicated that her father emigrated to Miami, Florida, the United States of America where he lived until his death on 17 September 1977. In support of her claim, Claimant [REDACTED 2] submitted her father’s death certificate, indicating that his name was Max Zelmanovic, that he was born in Czechoslovakia,

that his father's name was Mandel Roth, and that his wife was [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that she was born on 19 December 1946 in Czechoslovakia.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted an IQ to the Court in 1999 identifying the Account Owner as her father, Max Roth, who was married to [REDACTED]. Claimant [REDACTED 4] indicated that her parents, who were Jewish, resided at 3 Stefanikova Vlice in Nitra, Czechoslovakia (today, Slovakia). Claimant [REDACTED 4] indicated that her father was a lawyer, and was deported to a concentration camp in 1943. Claimant [REDACTED 4] indicated that her parents perished in the Holocaust. Claimant [REDACTED 4] indicated that she was born on 11 July 1928.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an ATAG Ernst & Young claim form in 1998, identifying the Account Owner as her grandfather, Dr. Maximilian (Miksa) Roth, who was born in 1871, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 3] indicated that before the Second World War, her grandfather resided in Nove Zamky, Czechoslovakia (today, Slovakia) before the Second World War, where he was a physician. Claimant [REDACTED 3] further indicated that Maximilian Roth had two sons: [REDACTED] (Claimant [REDACTED 3]'s father), and [REDACTED]. Claimant [REDACTED 3] indicated that her grandfather, who was Jewish, died before the Second World War, but that [REDACTED], who was a physician, was killed in a concentration camp during the Second World War. According to Claimant [REDACTED 3], her father was the only member of the family to survive the Holocaust. In support of her claim, Claimant [REDACTED 3] submitted her father's birth certificate, indicating that his name was [REDACTED] (his wife's family name), and that his father was Miksa Roth, and her birth certificate, indicating that her father was [REDACTED]. Claimant [REDACTED 3] indicated that she was born on 2 December 1942 in Banska Bystrica, Czechoslovakia (today Slovakia).

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Max Roth. This record does not indicate the Account Owner's domicile. The Bank's record indicates that the Account Owner held one account, numbered 4091, the type of which is not indicated. According to the Bank's record, the last contact with the Account Owner took place on 7 April 1931. The Bank's record indicates that the account was transferred to a suspense account on 4 November 1961, as of which date the account had a balance of SF 155.90. The account remains suspended.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s father's name, Claimant [REDACTED 2]'s father's name, Claimant [REDACTED 4]'s father's name, and Claimant [REDACTED 3]'s grandfather's name each match the published name of the Account Owner.⁵ The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name. In support of their claims, Claimant [REDACTED 1] submitted his father's birth certificate, indicating that he was born Miksa Roth, Claimant [REDACTED 2] submitted her father's death certificate, indicating that his name was Max Zelmanovic, and that his father's name was Mandel Roth; and Claimant [REDACTED 3] submitted her father's birth certificate, indicating that his name was [REDACTED] (his wife's family name), and that his father was Miksa Roth, providing independent verification that the persons who are claimed to be the Account Owner each had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 4] filed IQs with the Court in 1999, and Claimant [REDACTED 3] filed an ATAG Ernst & Young claim form in 1998, asserting their entitlement to a Swiss bank account owned by their relatives, prior to the publication in February 2001 of the 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"). This indicates that they have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relatives, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1], Claimant [REDACTED 4], and Claimant [REDACTED 3] had reason to believe that their relatives 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], Claimant [REDACTED 4], and Claimant [REDACTED 3].

The CRT notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2]'s relative, Claimant [REDACTED 4]'s relative, and Claimant [REDACTED 3]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's 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 the Claimants have each plausibly identified the Account Owner.

⁵ The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 3] submitted documents indicating that their relatives names were Miksa Roth, and not Max Roth. However, the CRT further notes that Max is a common alternative name for Miksa in Hungary.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that his father was Jewish, and that the Nazis forced him to perform slave labor and deported him to a concentration camp in 1944.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Specifically, Claimant [REDACTED 2] stated that her father was Jewish, and that the Nazis forced him to perform slave labor during the Second World War.

Claimant [REDACTED 4] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Specifically, Claimant [REDACTED 4] stated that her father was Jewish, and that he was deported to a concentration camp, where he perished.

The CRT notes that while the Claimant [REDACTED 3]'s grandfather was not a Victim of Nazi Persecution, his children were Victims of Nazi Persecution. The Claimant stated that her father was the only member of his family to survive the Holocaust, and that her uncle, the Account Owner's son, perished in a concentration camp.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her father. These documents include his father's birth certificate, indicating that he was born Miksa Roth, a certificate of name change, indicating that Claimant [REDACTED 1]'s father changed his family name from Roth to Rosti, and his father's will, indicating that Claimant [REDACTED 1] is the son of Max Rosti (formerly, Max Roth).

Claimant [REDACTED 2] has also plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was her father. The CRT further notes that Claimant [REDACTED 2] submitted her father's death certificate, indicating that his name was Max Zelmanovic, and that his father's name was Mandel Roth. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. 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 2] as a family member, and all this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 4] has also plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was her father. The CRT further notes that Claimant [REDACTED 4] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 4], prior to the publication in February 2001 of the ICEP List. 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 4] as a family member, and all this

information supports the plausibility that Claimant [REDACTED 4] is related to the Account Owner, as she has asserted in her IQ.

Claimant [REDACTED 3] has also plausibly demonstrated that she is related to the Account Owner by submitted specific information and documents demonstrating that the Account Owner was her grandfather. These documents include her father's birth certificate, indicating that his name was [REDACTED] (his wife's family name), and that his father was Miksa Roth, and her birth certificate, indicating that her father was [REDACTED].

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to a suspense account, 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], Claimant [REDACTED 2], and Claimant [REDACTED 4] have each plausibly demonstrated that the Account Owner was his or her father, and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her grandfather, and those relationships justify an Award. Third, the CRT has determined 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 account of unknown type. The Bank's record indicates that the value of the account as of 4 November 1961 was SF 155.90. In accordance with Article 31(1) of Rules, this amount is increased by an adjustment of SF 255.00, which reflects standardized bank fees charged to the account between 1945 and 1961. Consequently, the adjusted balance of the account at issue is SF 410.90. According to Article 29 of the Rules, if the amount in an unknown type of account was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The present value of the amount of the award is determined by multiplying the balance as determined by Article 35 by a factor of 12.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of SF 49,375.00.

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], Claimant

[REDACTED 2], Claimant [REDACTED 4], and Claimant [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 25 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
29 December 2005