

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

and to Claimant [REDACTED 3]
represented by Sergio R. Karas

in re Account of Rosa Schütz

Claim Numbers: 214349/AC;¹ 214788/AC; 735264/AC²

Award Amount: 47,975.63 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Adolf Schütz; and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Max Adler, Lotte Adler, Jenny Adler, and Rosa Schutz.³ This Award is to the published account of Rosa Schütz (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.

¹ Claimant [REDACTED 1] submitted an additional claim, which is registered under the Claim Number 703724. The CRT will treat this claim in a separate determination.

² Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered POL-0027165, 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 735264.

³ The CRT will treat the claims to the accounts of Adolf Schütz, Max Adler, Lotte Adler, and Jenny Adler in separate determinations.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form and an Initial Questionnaire identifying the Account Owner as her maternal great-aunt by marriage, Roza Schütz, née Hilferding, who was married to Claimant [REDACTED 1]'s grandmother's brother, [REDACTED] in Lwow, Poland (now the Ukraine), and most likely did not have any children. Claimant [REDACTED 1] indicated that [REDACTED] owned a haberdashery in Lwow, as well as two apartment buildings located at Rynek 12 and 15 in Lwow, in one of which he and his wife resided. Claimant [REDACTED 1] added that her great-uncle traveled from Poland to Switzerland at least four times a year to deposit money in Swiss banks. Claimant [REDACTED 1] indicated that in late 1941 or early 1942, her great-uncle, great-aunt and the rest of their immediate family, who were Jewish, were arrested by the Nazis and deported from Lwow and were never heard from again. According to information provided by Claimant [REDACTED 1], her mother, [REDACTED], formerly [REDACTED], née [REDACTED], was the daughter of [REDACTED], née [REDACTED], who was [REDACTED]'s sister. In a telephone conversation with the CRT on 18 October 2004, Claimant [REDACTED 1] stated that she did not have any further information or documents pertaining to her relatives, as she was only a child during the Second World War, and added that all the family's records were lost in the Holocaust. Claimant [REDACTED 1] submitted a certificate from the Jewish Historical Institute in Warsaw, indicating that she lived in hiding in Lwow during the Second World War using the assumed name [REDACTED], and that she was later interned in a labor camp in Starograd, Poland. Claimant [REDACTED 1] indicated that she was born on 31 December 1926 in Lwow.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Adolf Schütz.⁴

Claimant [REDACTED 2]

Claimant [REDACTED 2], who is Claimant [REDACTED 1]'s sister, submitted an Initial Questionnaire claiming the accounts of her maternal great-uncle, Adolf Schütz, who was born in the 1870's and resided at Rynek 15 in Lwow, Poland. Claimant [REDACTED 2] indicated that her great-uncle was forced to live in the Lwow ghetto and that he perished in the Holocaust. Claimant [REDACTED 2] did not provide information about her great-uncle's wife in her Initial Questionnaire. Claimant [REDACTED 2] indicated that she was born on 15 January 1935.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as his maternal great-aunt, Rosa Schütz, née Adler, who was an Austrian citizen and resided in either Austria or Germany. Claimant [REDACTED 3] indicated that his great-aunt, who was the sibling of his maternal grandfather, [REDACTED], was the daughter of [REDACTED] and [REDACTED], née [REDACTED], and that she was one of many siblings. Claimant

⁴ As noted above, the CRT will treat the claim to the account of Adolf Schütz in a separate determination.

[REDACTED 3] indicated that his mother's family, who were Jewish, were wealthy landowners and merchants dealing in farm foods and household goods, and his grandfather owned a household goods store in Kattowitz, Germany (now Katowice, Poland). According to information provided by Claimant [REDACTED 3], his mother was interned in various camps during the Second World War. Claimant [REDACTED 3] further explained that, although he was not able to provide much information about his relatives and their whereabouts and experiences during the Holocaust, as his mother, [REDACTED], née [REDACTED], rarely spoke about that period, and he was born after the Second World War, his mother often mentioned that her father and aunts had opened Swiss bank accounts. Claimant [REDACTED 3] indicated that he was born on 20 February 1947 in Wetzlar, Germany.

Claimant [REDACTED 3] submitted copies of his birth certificate and his identification card, indicating that he was born on 20 February 1947 in Wetzlar, that his parents were [REDACTED] and [REDACTED], née [REDACTED], and that they were Jewish. The Claimant also submitted a family tree that he received in 1997 from a relative living in Poland.

Information Available in the Bank's Records

The Bank's records consist of excerpts from lists of accounts held at the Bank and a printout from the Bank's database. According to these records, the Account Owner was Rosa Schütz. The Bank's records do not contain information about the Account Owner's domicile. The Bank's records indicate that the Account Owner held savings/passbook account, numbered 163.122.05, which was opened on 17 August 1936.

The Bank's records indicate that the account was considered dormant by the Bank and was transferred to a suspense account on 12 September 1980, as of which date it had a balance of 3,293.05 Swiss Francs ("SF"). 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] and Claimant [REDACTED 3] have each plausibly identified the Account Owner. Their great-aunts' names each match the published name of the Account Owner. The CRT notes that Claimant [REDACTED 2] did not identify the Account Owner in her Initial Questionnaire, but that her sister, Claimant [REDACTED 1], identified the Account Owner in her Claim Form.

The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name. The CRT notes that the name Rosa Schütz 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 notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] filed Initial Questionnaires with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Adolf Schütz, Rosa Schütz's spouse, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] and Claimant [REDACTED 2] 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 relative, 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] and Claimant [REDACTED 2] had reason to believe that their 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] and Claimant [REDACTED 2].

The CRT notes that Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'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 records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because these claimants provided a materially different name spelling from the spelling used by the Account Owner, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim or Target of Nazi Persecution

Claimant [REDACTED 1] and Claimant [REDACTED 2] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and in late 1941 or early 1942, she, her husband and their immediate family, were arrested by the Nazis and deported from Lwow and were never heard from again. Additionally, Claimant [REDACTED 1] submitted records indicating that she was also persecuted by the Nazis.

Claimant [REDACTED 3] has also made a plausible showing that the Account Owner was a target of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish, and lived in Germany or Austria during the Second World War. Claimant [REDACTED 3] also indicated that many of the Account Owner's relatives perished in concentration camps.

The Claimants' Relationship to the Account Owner

The Claimants have each plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant

[REDACTED 1]'s and Claimant [REDACTED 2]'s great-aunt and Claimant [REDACTED 3]'s great-aunt.

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] filed Initial Questionnaires with the Court in 1999. The CRT further notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to each of the Claimants as a family member, and all of this information supports the plausibility that the Claimants are each related to the Account Owner, as they have asserted in their claims.

The Issue of Who Received the Proceeds

The Bank's records indicate that on 12 September 1980, 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, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 1]'s and Claimant [REDACTED 2]'s great-aunt and Claimant [REDACTED 3]'s great-aunt, 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

In this case, the Account Owner held one savings/passbook account. The Bank's records indicate that the value of the savings/passbook account as of 12 September 1980 was SF 3,293.05. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 545.00, which reflects standardized bank fees charged to the account between 1945 and 1980. Consequently, the adjusted balance of the account at issue is SF 3838.05. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 47,975.63.

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 or group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are entitled to share one-half of the Award amount, and Claimant [REDACTED 3] is entitled to one-half of the Award amount.

According to Article 23(1)(g) of the Rules, 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 this case, Claimant [REDACTED 1] and Claimant [REDACTED 2], who are sisters, are claiming the account of their maternal great-aunt by marriage, and they are therefore each entitled to one-fourth 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
7 June 2006