

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]
represented by Stephen M. Harnik

in re Accounts of Rosa Deutsch

Claim Number: 222517/AX

Award Amount: 541,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of [REDACTED].¹ This Award is to the published accounts of Rosa Deutsch (the “Account Owner”) at the Zurich 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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her maternal grandmother, Rosa (Rosalia) Deutsch, née Elbert, who was born in 1870 and was married to [REDACTED]. According to the Claimant, the couple had two children: the Claimant’s mother, [REDACTED], and [REDACTED]. The Claimant explained that her grandmother was a dressmaker, and that she lived with her family in Vienna, Austria. The Claimant indicated that her grandmother, who was Jewish, was forced to close her business by the Nazis, and that she fled Austria in 1939 to escape Nazi persecution. The Claimant stated that Rosa Deutsch died in 1941 in Detroit, Illinois, the United States. In support of her claim, the Claimant submitted her birth certificate, indicating her mother’s name was [REDACTED], née [REDACTED], and that she was born in Vienna. The Claimant indicated that she was born on 4 June 1919 in Vienna. The Claimant is representing her sister, [REDACTED 2], née [REDACTED], who was born on 27 June 1922 in Vienna.

¹ The CRT will treat the claim to this account in a separate decision.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Rosa Deutsch who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held two demand deposit accounts and three custody accounts. According to the Bank's record, the custody account numbered 47312 was closed on 28 August 1938, the custody account numbered 4127 was closed on 1 September 1938, and the custody account numbered 47313, as well as the two demand deposit accounts were closed on 10 September 1938. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandmother's name and country of residence match the published name and country of residence of the Account Owner. The Claimant stated that her grandmother lived in Vienna, which matches unpublished information about the Account Owner's city of residence contained in the Bank's record. In support of her claim, the Claimant submitted her birth certificate indicating her mother's name was [REDACTED], née [REDACTED], and that she was born in Vienna, providing independent verification that the relatives of the person who is claimed to be the Account Owner had the same city recorded in the Bank's record as the city of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants could not identify the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that her business was closed by the Nazis, and that she fled Nazi-controlled Austria.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information demonstrating that the Account Owner was her maternal grandmother. The CRT notes that the Claimant submitted her birth certificate indicating her mother's name was [REDACTED], née [REDACTED], which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner, which supports the plausibility that the Claimant is related to the Account Owner as she has asserted in her claim form. There is no information to indicate that the Account Owner has other surviving heirs other than the Claimant's sister, whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner's custody account numbered 47312 was closed on 28 August 1938, the custody account numbered 4127 was closed on 1 September 1938, and the custody account numbered 47313, as well as the two demand deposit accounts were closed on 10 September 1938; that Nazi confiscatory legislation was in effect at the time the accounts were closed; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate the assets of the Jewish population of Austria; that the Account Owner fled Nazi-controlled Austria; that there is no record of the payment of the Account Owner's accounts to her; that the Account Owner and her heirs would not have been able to obtain information about her accounts 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 (a)(ii), (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 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her grandmother, and that relationship justifies 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 accounts.

Amount of the Award

In this case, the Account Owner held three custody accounts and two demand deposit 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"), and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 43,280.00. 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 a total award amount of SF 541,000.00.

Division of the Award

The Claimant is representing her sister, [REDACTED 2] in these proceedings. According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Accordingly, the Claimant and her sister are each entitled to

receive one-half of the total amount of the award.

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 claim 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