

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED], née [REDACTED]; [REDACTED], née
[REDACTED]; and [REDACTED], née [REDACTED]

in re Account of Dr. Rudolf Diamant

Claim Number: 211875/MBC¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Dr. Rudolf Diamant (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.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Dr. Rudolf Diamant, who was born on 14 June 1869 in Schaffa, Bohemia (then part of the Austro-Hungarian Empire), and was married to [REDACTED], née [REDACTED], who was born on 7 October 1904. The Claimant stated that her parents had triplets: the Claimant; [REDACTED], née [REDACTED]; and [REDACTED], née [REDACTED]. The Claimant further stated that her father, who was Jewish, lived at Lobkowitzplatz 1 in Vienna and that he was a medical doctor and a dentist. The Claimant indicated that on an unknown date in 1938, after the Nazi occupation of Austria (the *Anschluss*), the Nazis confiscated her father’s medical practice and arrested him. According to the Claimant, her mother was able to get her father released from Nazi custody, at which time the family fled to Paris, France on an unknown date in 1938. The Claimant stated that in 1940, the family emigrated from France to the United States, where her father died in

¹ The Claimant submitted two additional claims to the accounts of [REDACTED], which are registered under the Claim Numbers 212023 and 212024. Claim Numbers 212023 and 212024 were determined by the CRT to be duplicate claims and have therefore been treated under the consolidated Claim Number 212024. On 2 January 2003, the Court approved an Award to the Claimant to the accounts of [REDACTED].

1963. The Claimant indicated that eight of her father's siblings perished in concentration camps, including his brother [REDACTED], who perished along with his wife, [REDACTED]; and [REDACTED], who committed suicide upon his release.

In support of her claim, the Claimant submitted her birth certificate, identifying her father as Dr. Rudolf Diamant of Vienna; a family narrative written by her mother two or three years ago, upon the request of her daughters, identifying Rudolf Diamant as the Claimant's mother's husband and the father of the Claimant and her two sisters; a document issued by the City of Vienna in 1960 identifying the Claimant's maiden name as [REDACTED]; and a photograph of Dr. Rudolf Diamant. The Claimant's birth certificate states that she was born on 7 June 1927 in Vienna. The Claimant is representing her mother, [REDACTED], née [REDACTED], who was born on 7 October 1901 in Vienna, and her sisters, [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED], who were both born on 7 June 1927.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Rudolf Diamant, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one demand deposit account, which was opened on 31 October 1925 and closed on 20 April 1938. The amount in the account on the date of its closure is unknown. 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

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her father's name matches the published name of the Account Owner. The Claimant identified her father's title and city of residence, which match the unpublished title and city of residence of the Account Owner contained in the Bank's record. The Claimant also submitted her birth certificate, identifying her father as Dr. Rudolf Diamant of Vienna; and a document issued by the City of Vienna in 1960, identifying the Claimant's maiden name as [REDACTED]. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner. Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a profession that is inconsistent with the professional title held by the Account Owner. Taking all of these factors into consideration, the CRT concludes that it is plausible that the Claimant has 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 indicated that the Account Owner was Jewish, that he resided in Nazi-occupied Austria, that the Nazis confiscated his assets and arrested him, and that following his release from prison, he fled from Austria to France, and later to the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents, including her birth certificate, which demonstrate that the Account Owner was the Claimant's father. The CRT notes that the Claimant also identified her father's city of residence and professional title, which match unpublished information about the Account Owner, as contained in the Bank's record. There is no information to indicate that the Account Owner has other surviving heirs other than the parties represented by the Claimant.

The Issue of Who Received the Proceeds

Given that the Account Owner was Jewish and resided in Austria after the Nazi annexation of Austria (the *Anschluss*) on 13 March 1938; that after the *Anschluss*, the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Austria through the enforcement of flight taxes and other confiscatory measures, including the confiscation of assets held in Swiss banks; that after the *Anschluss*, the Account Owner was arrested and imprisoned by the Nazis on an unknown date in 1938 that would have occurred after the *Anschluss*, an event that often resulted in the coerced disclosure of foreign bank accounts; that the account was closed on 20 April 1938, only less than a month after the *Anschluss*; that the Account Owner was released from prison on an unknown date; that even if the Account Owner was released from prison prior to 20 April 1938, it is not plausible, given that the *Anschluss* occurred on 13 March 1938 and the Account Owner's arrest and imprisonment sometime afterwards, that the Account Owner would have been able to travel to an unoccupied country in order to close his account on 20 April 1938; that there is no record of the payment of the Account Owner's account to him or his heirs; 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 and misstating account information in their responses to inquiries by Account Owner and their heirs because of the banks' concerns regarding double liability; and given the application of Presumptions (a), (h), and (j) contained 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 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 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 father, and that relationship justifies an Award. Finally, 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 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 demand deposit account was 2,140.00 Swiss Francs. 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 26,750.00 Swiss Francs.

Division of the Award

According to Article 23(1)(b) of the Rules, if the Account Owner’s spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case, the Claimant is representing her mother, the Account Owner's spouse; and her two sisters. Accordingly, the Claimant’s mother, as the Account Owner's spouse, is entitled to receive one-half of the total award amount, or 13,375.00 Swiss Francs; and the Claimant and her two sisters, as the children of the Account Owner, are each entitled to receive one-sixth of the total award amount, or 4,458.33 Swiss Francs each.

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
20 May 2004