

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Eva Rosner,
also acting on behalf of [REDACTED]

in re Account of Eva Nagy

Claim Number: 222557/IG

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Eva Rosner, née Nagy, (the “Claimant”) to the account of [REDACTED].¹ This Award is to the account of Eva Nagy (the “Account Owner”) at the Lausanne 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 herself, Eva Rosner, née Nagy. The Claimant stated that she was born on 29 July 1929 in Budapest, Hungary, to [REDACTED], née [REDACTED], and [REDACTED]. The Claimant stated that her mother was born on 29 March 1904 in Szilagyper, Romania, and that her father, who was a newspaper editor, was born in 1895 in Budapest. According to the Claimant, her parents, who were Jewish, resided until 1965 at Petervarad 38 in Budapest. The Claimant further stated that her father was forced to perform slave labor from 1944 to 1945 in the Budapest Ghetto. The Claimant indicated that her father traveled to Switzerland before the Second World War, and that after the War her father told her that he had money in a Swiss bank account, but that she does not know where the account is located. During a telephone conversation with the CRT on 14 November 2002, the Claimant indicated that she and her mother, whom she is representing in these proceedings, immigrated to Canada after the Claimant’s father’s death in 1965. In support of her claim, the Claimant submitted her mother’s passport, and her own passport indicating that she was born in Budapest, Hungary.

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

Information Available in the Bank's Records

The Bank's records consist of two lists of dormant accounts developed as a result of an internal Bank survey in 1959 and 1963, pursuant to the Swiss Federal Decree of 1962, concerning assets of missing foreigners or stateless persons persecuted due to religion, race, or politics, and a printout from the Bank's database. According to these records, the Account Owner was *Melle* (Miss) Eva Nagy, who resided in Hungary. The Bank's records indicate that the Account Owner held an account of unknown type. According to the Bank's records, the amount in the account was 29.60 Swiss Francs as of 24 June 1959, and 9.50 Swiss Francs on 27 August 1963.

The Bank's records do not indicate the date on which the account was opened, nor do they indicate when the account at issue was closed, or to whom it was paid. 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. There is no evidence in the Bank's records that the Account Owner, or her heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's name matches the published name of the Account Owner. The Claimant stated that she resided in Hungary, which matches published information about the Account Owner contained in the Bank's records, and that Eva Nagy was her maiden name, which matches unpublished information about the Account Owner's marital status contained in the Bank's records. In support of her claim, the Claimant submitted her passport, indicating that she was born in Budapest, Hungary. The CRT notes that the Claimant stated that her father traveled to Switzerland before the Second World War, and that after the War her father told her that he had money in a Swiss bank account, but that she does not know where the account is located. The CRT further notes that the name Eva Nagy 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. Furthermore, the CRT 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 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 she is Jewish, that she resided in Hungary

during the Second World War, and that her father was forced to perform slave labor in the Budapest Ghetto. The CRT notes that the Bank's records consists of lists of dormant accounts, including the account of the Account Owner, that was developed in an internal Bank survey in 1959 and 1963, pursuant to the Swiss Federal Decree of 1962, concerning assets of missing foreigners or stateless persons persecuted due to religion, race, or politics, which provides further evidence that the Account Owner was considered by the Bank to be a victim of Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is the Account Owner by submitting her passport identifying her name and former residence as being the same as that of the Account Owner as established in the Bank's records.

The Issue of Who Received the Proceeds

Given that the Bank's records consist of lists of dormant accounts, developed in an internal Bank survey in 1959 and 1963, pursuant to the Swiss Federal Decree of 1962, concerning assets of missing foreigners or stateless persons persecuted due to religion, race, or politics, and that the account was opened until at least 27 August 1963, which demonstrates that the account was existence and dormant until at least 1963; that the Account Owner and her family remained in Communist Hungary until approximately 1965, when the Account Owner's father died, and the Account Owner would have been unable to access her account prior to this time; that the Account Owner was a child at the time of the Second World War; that there is no indication in the Bank's records that the Account Owner received the proceeds of the account, nor is there any record of a date of closure of the account; that the Account Owners and her heirs would not have been able to obtain information about her 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 inquires by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (g), (h), (i) 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 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 she is the Account Owner. Finally, the CRT has determined that it is plausible 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 account of unknown type. The Bank's records indicate that the value of the account was 29.60 Swiss Francs on 24 June 1959, and 9.50 Swiss Francs on 27 August 1963. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 49,375.00 Swiss Francs.

Division of the Award

In this case, the Claimant, as the Account Owner, has a better entitlement to the account than her mother, [REDACTED], whom the Claimant is representing in these proceedings. Accordingly, the Claimant is entitled to the total award amount.

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
31 December 2003