

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], [REDACTED 2], [REDACTED 3]

in re Account of Mor Marton Orovan, Emilie Orovan and Thomas Orovan

Claim Numbers: 216522/MBC; 217006/MBC; 217007/MBC; 217008/MBC; 220715/MBC;
220716/MBC

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together “the Claimants”) to the account of Mor Marton Orovan (“Account Owner Mor Marton Orovan”), Emilie Orovan (“Account Owner Emilie Orovan”), and Thomas Orovan (“Account Owner Thomas Orovan”) (together, the “Account Owners”) 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 Claimants

Claimant [REDACTED 1], submitted a Claim Form identifying Account Owner Mor Marton Orovan as her first cousin once removed, who was born in Viagbeszterce, Hungary, on 31 August 1890 and was married to [REDACTED], née [REDACTED]. The couple had one child, [REDACTED], who was born in Budapest, Hungary on 27 December 1920. Claimant [REDACTED 1] further stated that her cousin was a woodseller who resided in Budapest at Lipótkörút 9. According to Claimant [REDACTED 1], her cousin, who was Jewish, was deported to a forced labor camp, where he died in 1944. In support of her claim, Claimant [REDACTED 1] submitted documents, including her cousin’s marriage certificate and a family tree showing that her grandfather, [REDACTED], was the brother of [REDACTED], who was the father of Account Owner Mor Marton Orovan, the father-in-law of Account Owner Emilia Orovan, and the grandfather of Account Owner Thomas Orovan. Claimant [REDACTED 1] stated that she was born on 1 November 1921 in Budapest.

Claimant [REDACTED 2] submitted three Claim Forms identifying Account Owner Emilie Orovan as her aunt on her mother’s side, Account Owner Mor Marton Orovan as her uncle, and

Account Owner Thomas Orovan as her cousin. Claimant [REDACTED 2] stated that her aunt, [REDACTED], née [REDACTED], was born in Hungary in 1891 and was married to Mor Marton Orovan. The couple had one child named [REDACTED], who was born in Budapest in 1920. Claimant [REDACTED 2] indicated that [REDACTED] was studying in France before his deportation. According to Claimant [REDACTED 2], her aunt and uncle had a timber business and resided at St Istvan Road 13 in Budapest. Claimant [REDACTED 2] further indicated that her relatives were Jewish and that her uncle and cousin were deported to a concentration camp where they perished in 1944 or 1945. Claimant [REDACTED 2] indicated that her aunt survived Nazi persecution and, a few years after the end of the Second World War, emigrated to Haifa, Israel, where she settled. Claimant [REDACTED 2] aunt passed away in Israel between 1960 and 1965. In support of her claim, Claimant [REDACTED 2] submitted pictures of her relatives. Claimant [REDACTED 2] stated that she was born on 31 July 1922 in Budapest.

Claimant [REDACTED 3] submitted two Claim Forms identifying Account Owner Mor Marton Orovan as her first cousin once removed and Account Owner Thomas Orovan as her second cousin. Claimant [REDACTED 3] stated that Mor Marton Orovan was born in Povazska Bystrica, Slovakia in 1897, and was married to [REDACTED] née [REDACTED], with whom she had one child, [REDACTED], who was born in Budapest in 1920. According to Claimant [REDACTED 3], her relatives were Jewish and resided in Budapest. Claimant [REDACTED 3] further stated that Mor Marton Orovan and his son [REDACTED] were deported to Auschwitz, where they perished in 1944 and 1943 respectively. In support of her claim, Claimant [REDACTED 3] submitted documents including Mor Marton Orovan's birth certificate and a family tree showing that her grandfather, [REDACTED], was the brother of [REDACTED], who was the father of Account Owner Mor Marton Orovan, the father-in-law of Account Owner Emilia Orovan, and the grandfather of Account Owner Thomas Orovan. Claimant [REDACTED 3] stated that she was born on 7 October 1919 in New York, the United States.

Information Available in the Bank Records

The bank records consist of a registration card and a printout from the Bank's database. According to these records, the Account Owners were Mrs. Emilie Orovan, Mor Marton Orovan, and Thomas Orovan, from Hungary. The bank records indicate that all correspondence was directed to Thomas Orovan at the School of Agriculture (*École d'Agriculture*) in Chatillon-sur-Seine, France. The bank records indicate that the Account Owners held an account of unknown type, numbered 11973.

The bank records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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 records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (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 deems it appropriate to join the six claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Their relatives' names and country of residence match the published names and country of residence of the Account Owners. Claimant [REDACTED 2] indicated that her cousin [REDACTED] was a student in France, which is consistent with the unpublished information contained in the bank records according to which the Bank had to send the correspondence to Account Owner Thomas Orovan, who resided in Chatillon-sur-Seine, France, at the School of Agriculture (*École d'Agriculture*).

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish and that Account Owner Mor Marton Orovan and Account Owner Thomas Orovan perished in a concentration camp, and that Account Owner Emilie Orovan survived Nazi persecution.

Moreover, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Thomas Orovan, and indicates that he was born in Budapest in 1920 and that he was a student, which matches the information about the Account Owner Thomas Orovan provided by the Claimants. This database also includes the name of a person named Mor Orovan, a wood merchant, who was born in Pov Bystrica, Czechoslovakia, in 1897, which substantially matches the information submitted by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting documents relating to their relatives. There is no information to indicate that the Account Owners have other surviving heirs.

According to Article 31 of the Rules, the CRT has determined that each of the Account Owners had an equal share of the account at issue. In this case, each Account Owner owned one-third of the account. According to Article 29(1)(e) of the Rules, Claimant [REDACTED 3] and Claimant [REDACTED 1] are each equally entitled to the share of Account Owner Mor Marton Orovan, and Claimant [REDACTED 2] is entitled to the shares of Account Owner Emilie Orovan and Account Owner Thomas Orovan. The CRT notes that Claimant [REDACTED 3] and Claimant [REDACTED 1] have a better entitlement to the share of Account Owner Mor Marton Orovan than Claimant [REDACTED 2], since they are related to him by blood, whereas Claimant

[REDACTED 2] is only related to him by marriage. Likewise, Claimant [REDACTED 2] has a better entitlement to the share of Account Owner Emilie Orovan, to whom she is related by blood, than do Claimant [REDACTED 3] and Claimant [REDACTED 1], who are related to Account Owner Emilie Orovan by marriage. Because Claimant [REDACTED 2] is a descendant of the grandparents of Account Owner Thomas Orovan, she has a better entitlement to his share than do Claimants [REDACTED 3] and [REDACTED 1], who are descendants of Thomas Orovan's great-grandparents.

The Issue of Who Received the Proceeds

Based on its precedent and the Rules, the CRT applies presumptions to determine whether Account Owners or their heirs received the proceeds of their accounts. These presumptions are contained in Appendix A.¹ The CRT concludes, given that as the German invasion spread across Europe as the Second World War progressed it would have been increasingly difficult and dangerous for the Account Owners to travel to Switzerland to access their account, the imposition of Swiss visa requirements in January 1939 would have also made it difficult for the Account Owners to access their account after that time, the Account Owners were victims of Nazi persecution in Hungary, and that presumption (j) applies in this case, it is plausible that the Account Owners did not receive the proceeds of the account during the War. Given the application of presumption (h), it is plausible that the Account Owners and their heirs did not receive the proceeds of the account after the War.

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 23 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners were their relatives. Claimant [REDACTED 1] stated that Account Owner Mor Marton Orovan was her first cousin once removed, and that relationship justifies an Award. Claimant [REDACTED 2] stated that Account Owner Emilie Orovan was her aunt on her mother's side, that Account Owner Mor Marton Orovan was her uncle, and that Account Owner Thomas Orovan was her cousin, and these relationships justify an award. Claimant [REDACTED 3] indicated that Account Owner Mor Marton Orovan was her first cousin once removed, and that Account Owner Thomas Orovan was her second cousin, and these relationships too justify an award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

¹ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account value and 35% of the total award amount is 16,590.00 Swiss Francs.

Division of the Award

As indicated above, Claimant [REDACTED 3] and Claimant [REDACTED 1] each receive one-sixth of the total award amount, and Claimant [REDACTED 2] is entitled to receive four-sixths of the total 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

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner was a child at the time of the Second World War;
- h) the Account Owners and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia

and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; *see also* ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, *see Albers v. Credit Suisse*, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, *see* Bergier Final Report at 450 -51, and possibly Romania as well, *see* Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. *See* Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." *Id.* at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. *See In re Holocaust Victim Asset Litig.*, 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).