

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Clotilde Rabinovitch

Claim Number: 214887/TW

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Clotilde Rabinovitch (the “Account Owner”) at the Geneva 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 his paternal aunt, Clotilde Rabinovitch (or Rabinovich), who was the sister of his father, [REDACTED], born on 26 January 1893 in the Ukraine. The Claimant indicated that the Account Owner and his father’s parents were [REDACTED] and [REDACTED]. The Claimant stated that his aunt, who was Jewish, lived in Warsaw, Poland from 1915. According to the Claimant, his father asked his sister to travel to Switzerland in 1936 to deposit money in a Swiss bank account on behalf of the Claimant’s father. The Claimant stated that his aunt opened a Swiss bank account in her name as she could not open an account in his father’s name. In 1941, she was forced to move to the Warsaw ghetto, after which the Claimant’s family lost contact with her. In support of his claim, the Claimant submitted copies of both his and his father's birth certificates indicating that their family name is [REDACTED]. The Claimant indicated that he was born on 29 August 1938 in the Ukraine.

Information Available in the Bank’s Records

The Bank’s records consist of extracts from a bank ledger. According to these records, the Account Owner was *Mlle* (Miss) Clotilde Rabinovitch. The Bank's records do not contain any information about the Account Owner's place of residence. The Bank’s records indicate that the Account Owner held a savings account, numbered 4574. The last activity on the account was in

1940. The Bank's records indicate that on 5 November 1948 the account was transferred to a suspense account for dormant assets, on which date the balance was 7.55 Swiss Francs.

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. 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 aunt's name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name and her marital status. The Claimant submitted copies of his and his father's birth certificates which show that the Claimant's relatives bore the same family name as the Account Owner -- Rabinovich.¹ The CRT notes that the name Clotilde Rabinovitch appears only once on the February 2001 list of published accounts determined by ICEP to be probably those of victims of Nazi persecution. The CRT further notes that there are no other claims to this account. Taking all 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, and that she was forced to move to the Warsaw ghetto in 1941, after which the Claimant's family lost contact with her.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was his aunt. The CRT notes that the Claimant submitted copies of his and his father's birth certificates that provide independent verification that the Claimant's relatives bore the family name Rabinovich, which supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

¹ As indicated by the Claimant, he currently spells his last name "[REDACTED]" but identified the alternative spelling "[REDACTED]." The CRT notes that the submitted birth certificates are written in the Cyrillic alphabet and finds it plausible that the family name may have been transliterated in different ways.

The Issue of Who Received the Proceeds

Given that the Account Owner was never heard from after being forced to move to the Warsaw ghetto in 1941; that there is no record of the payment of the account to the Account Owner, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about the account after the Second World War from the Bank due to the Swiss bank's practice of withholding or misstating account information in their responses to inquiries by account owners because of the bank's concern regarding double liability; and given the application of Presumptions (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 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 his aunt, and that relationship justifies an Award. Third, 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 savings account. The Bank's records indicate that the value of the savings account as of 5 November 1948 was 7.55 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 60.00 Swiss Francs, which reflects standardized bank fees charged to the savings account between January 1945 and September 1948. This amount is reduced by 5.12 Swiss Francs to reflect interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is 62.43 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings account was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 830.00 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 10,375.00 Swiss Francs.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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 for payment by the Special Masters.

Claims Resolution Tribunal
29 June 2004