

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Account of the Estate of Ludwig Rabl¹

Claim Numbers: 208753/AY,² 213135/AY³

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of [REDACTED], and upon the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together “the Claimants”) to the accounts of [REDACTED]⁴ and Ludwig Rabl. This Award is to the account of the Estate of Ludwig Rabl (the “Estate of the Account Owner”) at the [REDACTED] (the “Bank”). In this Award, Ludwig Rabl is to be referred to as the “Account Owner.”

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants submitted Claim Forms and Claimant [REDACTED 2] submitted an Initial Questionnaire identifying the Account Owner as their paternal uncle by marriage, Ludwig Rabl, who was born in 1890 and was married to [REDACTED], who was the sister of the Claimants’ father, [REDACTED]. Claimant [REDACTED 2] indicated that her uncle, who was Jewish, resided at Braunschweggasse 2 in Vienna, Austria. Claimant [REDACTED 2] stated that her uncle was the owner of a leather goods factory named *Rabl & Grün*, which was located at Lindengasse 55 in Vienna and in Prague, Czechoslovakia. Claimant [REDACTED 2] further

¹ The account was erroneously published in February 2001 as belonging to Ludwig Rabl on a list of Swiss bank accounts identified by auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons.

² Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 208753 and 200937. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 208753.

³ Claimant [REDACTED 2] submitted an additional Claim Form to the account of [REDACTED], which is registered under the Claim Number 211762. The CRT will treat the claim to this account in a separate decision.

⁴ The CRT treated the claims to the account of Ernst Moser in a separate decision, which has already been awarded by the CRT. See In re Account of Ernst Moser (approved on 31 December 2003).

stated that her uncle owned several shops, including one named *Facko*. Claimant [REDACTED 2] indicated that her uncle passed away on 24 November 1934 in Vienna. Claimant [REDACTED 2] further indicated that Ludwig Rabl's son, [REDACTED], perished in 1941 in a concentration camp in Poland, while his other son, [REDACTED], escaped Europe and passed away in the 1960s in the Congo. Claimant [REDACTED 2] stated that her aunt, [REDACTED], née [REDACTED], died in 1958 in Vienna.

The Claimants contacted the Holocaust Victims Information and Support Center in Vienna, which searched its records for information regarding Ludwig Rabl. The Center's records identify [REDACTED], [REDACTED] and [REDACTED] as [REDACTED]'s business partners and indicate that Ludwig Rabl married [REDACTED]. The records further indicate that [REDACTED] was the sister of [REDACTED], who was the father of Claimant [REDACTED 2].

Claimant [REDACTED 2] indicated that she was born on 8 August 1921 in Vienna. Claimant [REDACTED 1], who is Claimant [REDACTED 2]'s brother, stated that he was born on 2 June 1923 in Mödling, Austria. Claimant [REDACTED 2] previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by her aunt, [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of letters of correspondence and printouts from the Bank's database. According to these records, the Account Owner was Ludwig Rabl of Vienna, Austria. The Bank's records indicate that the Account Owner held an account of unknown type.

In a letter dated 23 October 1934, [REDACTED], a lawyer who resided in Mödling, Austria, at Franz Josefsplatz, stated that he was representing the heirs of the late Ludwig Rabl, who had passed away on 24 September 1934. [REDACTED] further stated that he was inquiring about the existence of assets belonging to the late Ludwig Rabl, the sole owner of a company named *Firma Julius Janowitz & Co.*, Vienna.

In its letter of response, dated 26 October 1934, the Bank refused to disclose any details due to Swiss bank confidentiality laws and informed [REDACTED] that it could only disclose information regarding a deceased customer if it was presented with official inheritance documents. A handwritten notation made on this letter by an employee of the Bank indicates that *Firma Julius Janowitz & Co.*, Vienna, was a leather goods manufacturer and that the amount in the account was 3,264.20 Swiss Francs as of 25 October 1934.

The Bank's records do not show 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 the 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's heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (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 determines it appropriate to join the two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' uncle's name matches the published name of the Account Owner. Claimant [REDACTED 2] indicated that her uncle was a leather goods manufacturer who passed away in 1934, which matches unpublished information about the Account Owner contained in the Bank's records.⁵ The Claimants further indicated that their father, [REDACTED], was a practicing lawyer who resided in Molding, Austria, which matches unpublished information contained in the Bank's records about the individual who contacted the bank on behalf of the Account Owner's heirs. In addition, the Claimants obtained research from the Holocaust Victims Information and Support Center in Vienna, identifying [REDACTED], [REDACTED] and [REDACTED] as business partners of their uncle, which matches unpublished information about the name of the business referenced in the Bank's records and by the Claimants. This research further indicates that Ludwig Rabl was married to [REDACTED], who was the sister of [REDACTED], and that [REDACTED] was the father of Claimant [REDACTED 2].

Additionally, the CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her aunt, [REDACTED], prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 2] has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] had reason to believe that members of her family owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2]. Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence and a later date of death than that of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

⁵ The CRT notes that the name of the business given by the Claimants is different than the name of the business in the Bank's records. Given that the Claimants were children at the time of the Account Owner's death and may not have known all of the names of Account Owner's businesses, the CRT concludes that based on the information provided by the Claimants, the Account Owner apparently had multiple businesses, the names of which the Claimants were not fully aware. The Claimants indicated that the Account Owner was a business partner of the [REDACTED] in a business called *Rabl & Grün*, and this is confirmed by information provided by the Holocaust Victims Information and Support Center in Vienna.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner's heirs were Victims of Nazi Persecution. The Claimants stated that the Account Owner's son [REDACTED], and the Account Owner's nephew, [REDACTED], were forced to flee Nazi-occupied Austria; and that the Account Owner's second son, [REDACTED], perished in 1941 in a concentration camp in Poland.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents and detailed biographical information demonstrating that the Account Owner is their paternal uncle by marriage. These documents include research from the Holocaust Victims Information and Support Center in Vienna, indicating Ludwig Rabl was married to [REDACTED], who was the sister of [REDACTED], and that [REDACTED] was the father of Claimant [REDACTED 2]. Furthermore, the CRT notes that the Claimants identified unpublished information, including the Account Owner's profession and year of death, as contained in the Bank's records; that the Claimants provided research from the Holocaust Victims Information and Support Center in Vienna, identifying [REDACTED] as a business partner of their uncle, which matches unpublished information about the name of the company referenced in the Bank's records; and that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner's wife and the Claimants prior to the publication in February 2001 of the ICEP List.

The Issue of Who Received the Proceeds

Given that the Account Owner died in 1934; that the Account Owner's son, [REDACTED], perished in a concentration camp; that the Account Owner's other son, [REDACTED], and brother-in-law, [REDACTED], were forced to flee Austria after the *Anschluss*; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found numerous such confiscations of Swiss bank accounts occurred at this time; that there is no record of the payment of the Account Owner's account to his heirs; that the Account Owner's heirs would not have been able to obtain information about the 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 inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) 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's 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their uncle and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that the Account Owner's heirs did not receive 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 as of 25 October 1934 was 3,264.20 Swiss Francs. 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

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, each of the Claimants is entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 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
20 May 2004