

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

**in re Account of Desiderius (Dezsö) Ransburg
and Rozsa Schlesinger**

Claim Number: 600833/AA¹

Award Amount: 153,543.72 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Desiderius (Dezsö) Ransburg (“Account Owner Ransburg”) and Rozsa Schlesinger (“Account Owner Schlesinger”) (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 Claimant

The Claimant submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying Account Owner Ransburg as his father, Desiderius (Dezsö) Ransburg, who was Jewish and was born on 23 February 1895 in Gara, Yugoslavia (present-day Hungary) to [REDACTED] and [REDACTED], née [REDACTED], and was married to [REDACTED] née [REDACTED], on 21 December 1946 in Timisoara, Romania. The Claimant indicated that he is the only child of Desiderius and [REDACTED] Ransburg. The Claimant identified Account Owner Schlesinger as his father’s cousin, who was Jewish and was born in 1891 and who died in 1980. The Claimant indicated his paternal grandmother, [REDACTED], née [REDACTED], had a sister, [REDACTED], and that [REDACTED] was married to [REDACTED]. The Claimant indicated that Rozsa Schlesinger was the daughter of [REDACTED] and [REDACTED].

The Claimant stated that from 1895 until 1911, his father lived in Gara, and that he then moved to Budapest, Hungary, where he lived until 1917. The Claimant further stated that in 1917, his father once again relocated to Resita, Romania, where he lived until the beginning of the Second

¹ The Claimant submitted a claim, numbered B-00540, on 20 January 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600833/AA.

World War. The Claimant stated that his father remained in hiding in various locations throughout Romania during the course of the Second World War and that, for a period of time, he performed forced labor. According to the Claimant, his father settled in Timisoara after the War and remained there until 1976, when he was able to immigrate to Israel. The Claimant stated that his father moved for the last time to Germany, where he died on 14 April 1980 in Stuttgart. The Claimant stated that his mother lived in Romania from 1918 until 1976, at which time she moved with her husband to Germany via Israel. The Claimant indicated that his mother lives today with him in Germany.

The Claimant stated that his father was employed as a civil servant in Romania. The Claimant indicated that his father began his career as a bookkeeper and moved on to become the head of a department and finally a director of administration. The Claimant explained that when his father was employed at the *Margina* company in Resita, he traveled frequently to Switzerland. The Claimant stated that his father often spoke of a Swiss bank account. According to the Claimant, because his father lived in communist Eastern Europe after the Second World War, he was not allowed to travel abroad to collect the proceeds of his account. The Claimant stated that, in 1960, his father was forced by the Romanian Secret Police to declare his foreign assets. The Claimant also stated that, in 1964, his father wrote letters to two Swiss banks about his account, but the banks responded that they could not identify any information regarding the account. The Claimant further stated that in 1972, 1974, and 1976 his father's cousin, [REDACTED] of Canada, traveled to Switzerland on his behalf and attempted to obtain information about the account, but was unsuccessful.

In support of his claim, the Claimant submitted his birth certificate, his parents' marriage certificate, his father's foreign asset declaration made to Romanian authorities, and his father's death certificate. The Claimant stated that he was born on 24 May 1951 in Timisoara.

Information Available in the Bank Records

The bank records consist of an account ledger, a list of accounts that were frozen in 1941, and Bank correspondence. According to these records, the Account Owners were Dezsö Ransburg of Timisoara, Romania and Rozsika Schlesinger of Gara, Hungary. The bank records indicate that the Account Owners held an unknown type of account, which was opened in May 1940.

According to the bank records, the account, numbered GR 67048, was originally opened at the Zurich branch of the Bank but was transferred on 19 June 1940 to the New York Agency of the Bank. In 1941, the account was blocked under the authority of the United States Trading with the Enemy Act with a recorded balance of 2,968.75 United States Dollars. The records also include an internal memorandum from the New York branch of the Bank to the Zurich branch confirming receipt of a signature card for the Account Owner and anticipating receipt of account opening documents, as well as a credit balance of 2,969.00 United States Dollars in the Account Owner's name as of 13 July 1940. The records indicate that the account remained blocked until 1960, when the United States government authorized the unblocking of Romanian assets. According to the records, the account was closed on 3 June 1974, but the records do not show to whom the proceeds were paid.

The records also contain a correspondence file from the Zurich branch of the Bank that contains several inquiries from Mr. Deszö Ransburg and his cousin [REDACTED], dating from the 1960s. One such inquiry from Mr. Deszö Ransburg in 1964 concerned an individual transfer of funds (2000.00 United States Dollars) remitted to the bank on 11 May 1940 via the Romanian [REDACTED] branch, to be kept at the Account Owner's disposal at the Bank's New York Agency. The bank records also include an internal memorandum noting that no such funds were received by the bank's New York Agency, as well as a response to the Account Owner dated October 1964 stating that it assumed he had made a mistake, and had therefore closed the matter.

The bank records indicate that the Account Owner contacted the Bank again in January 1965 and requested that it undertake further inquiries. In his correspondence, Desiderius Ransburg stated that his account was opened on 11 May 1940 in his and Rozsika Schlesinger's names in Gara, Romania. The Bank's response dated 8 February 1965 noted that it was unable to verify his assertions and stated that its ten-year document retention period made it impossible to research transfers dating back to 1940, and referred the Account Owner to the New York Agency of the Bank.

The 1962 correspondence from [REDACTED] on the Account Owners' behalf specifically inquired about an account numbered 4867, apparently a transposition of the actual account number of 67048. [REDACTED] and the Account Owner inquired about the account again in 1969. In September 1969, the Bank's New York branch confirmed to the Private Clients department at the Bank's Zurich branch the existence of an account on the New York books, but stated that the account was still blocked pursuant to war-time regulations freezing assets located in the United States belonging to persons resident in Romania. The New York branch noted that the New York number for the account was 80585, and requested clarification of the 4867 number provided by the Account Owner and his cousin. In October 1969, the Zurich branch responded that it was unable to provide additional information, because it retained documents for only ten years and it therefore had no records available.

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

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Ransburg. His father's name matches the unpublished name of the Account Owner. The Claimant identified his father's city and country of residence, which matches unpublished information about the Account Owner contained in the bank records. The Claimant has also plausibly identified Account Owner Schlesinger. His father's cousin's name substantially matches the unpublished name of the Account Owner. The Claimant indicated that his father had lived in Gara, Hungary for sixteen years, which matches unpublished information about Account Owner Schlesinger's place of residence.

Status of the Account Owners as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owner Ransburg was Jewish according to Nazi racial legislation and was forced into hiding and made to perform forced labor during the Second World War. Account Owner Schlesinger was Jewish and lived in Hungary during the Nazi occupation.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he is the son of the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given the freeze of Romanian assets under the authority of the United States Trading with the Enemy Act, the fact that the Account Owner Ransburg contacted the Bank twice regarding the account and his cousin traveled to Switzerland on three occasions to obtain information about the account, the Bank refused to provide information about the account, and the application of Presumptions (e), (h), (i) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs. 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.

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 Owners were his father and his father's cousin, and these relationships 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

The bank records indicate that the value of the account as of 1941 was 2,968.75 United States Dollars, which was equal to 12,795.31 Swiss Francs. The present value of the amount of the award is determined by multiplying the historic value by a factor of 12, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is 153,543.72 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 payment by the Special Masters.

Claims Resolution Tribunal
March 11, 2003

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial 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 or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial 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 or Beneficial 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 or Beneficial 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 or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial 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, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial 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, Beneficial 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).