

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]
represented by Erez Bernstein

in re Accounts of Olga Reik and Rosa Wiesner

Claim Numbers: 501263/SI

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Hugo Reik and Anna Reik. This award is to the published accounts of Olga Reik (“Account Owner Reik”) and Rosa Wiesner (“Account Owner Wiesner”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).^{1, 2}

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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted Claim Forms identifying Account Owner Reik as her great-great-aunt, Olga Reik, née Wiesner, who was born on 6 August 1882. The Claimant explained that Olga Reik was first married to someone named “[REDACTED],” with whom she had a daughter, [REDACTED] ([REDACTED]), who was born in 1908 in Brünn, Austria-Hungary (today Brno, the Czech Republic). The Claimant further stated that, in December 1911, Olga Reik married [REDACTED], the brother of [REDACTED], the Claimant's maternal great-grandfather. In addition, the Claimant stated that [REDACTED], who was Jewish, resided in Vienna, Austria, and that he and his wife fled Austria in 1939, after the incorporation of Austria into the German

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), only the name Rosa Wiessner [*sic*] is published. Upon careful review, the CRT has concluded that the Bank’s record evidences that the account was jointly held by Olga Reik and Rosa Wiesner. The CRT further notes that the name Olga Reik was published on the 2005 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “2005 List”).

² In a separate decision, the CRT awarded the accounts of Hugo Reik and Anna Reik to the Claimant. See *In re Accounts of Hugo Reik and Anna Reik* (approved on 11 May 2005).

Reich (the “*Anschluss*”). Finally, the Claimant stated that [REDACTED] predeceased her mother, and that Olga Reik died in March 1975, in Queens, New York, the United States.

In support of her claim, the Claimant submitted an excerpt from the Vienna municipal records, indicating that Olga Reik, formerly Grünwald, was born on 6 August 1882, was married to [REDACTED], had a daughter, [REDACTED], and resided in Vienna; an excerpt from the *New York Times* obituaries, indicating that Olga Reik died in March 1975, and that her daughter, [REDACTED], predeceased her; an excerpt from the city registry of Prostejova, Czechoslovakia (today the Czech Republic), indicating that [REDACTED] and [REDACTED] were brothers; a copy of a birth registry entry regarding [REDACTED], indicating that she was born to [REDACTED] and [REDACTED]; the birth certificate of [REDACTED], indicating that her mother was [REDACTED], née [REDACTED]; the Claimant’s birth certificate, indicating that her mother was [REDACTED 2], née [REDACTED]. The Claimant also submitted a copy of documents obtained from the Austrian State Archive, which are more fully described below.

The Claimant indicated that she was born on 3 December 1970 in the United Kingdom. The Claimant is representing her mother, [REDACTED 2], née [REDACTED], who was born on 17 March 1947, and her maternal aunt, [REDACTED 3], née [REDACTED], who was born on 10 October 1948.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, Account Owner Reik was *Frau* (Mrs.) Olga Reik and Account Owner Wiesner was Rosa Wiesner, both of whom resided in Vienna, Austria. The Bank’s record indicates that the Account Owners held one custody account, numbered L55740, and one demand deposit account. The Bank’s record further indicates that the custody account was closed on 29 July 1938, and that the demand deposit account was closed on 31 July 1938. The amounts in the accounts on their respective dates of closure are unknown. There is no evidence in the Bank’s record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of [REDACTED], numbered 47409. According to these records, [REDACTED], who was born on 1 July 1879, was a citizen of Czechoslovakia, and was married to Olga Reik, née Wiesner, who was Protestant. These records indicate that [REDACTED], who was Jewish, was a patent attorney and resided in Vienna. These records further indicate that [REDACTED] owned a law practice located at Kärntnerstrasse 27 (or Himmelpfortgasse 2), valued at 10,593.88 Reichsmark (“RM”). According to these records, [REDACTED] held liquid assets to the amount of SF 17,034.17 at the Bank 1 as of 27 April 1938. Correspondence in the file indicates that

[REDACTED] had left Vienna for Czechoslovakia on 23 December 1938 and that he was assessed flight tax (*Reichsfluchtsteuer*) of RM 47,972.00 on 3 November 1939, at which time he and his wife were residing in London, with a correspondence address in care of [REDACTED] at 171 Queen Victoria Street. The CRT notes that the assets at the Bank belonging to Hugo Reik were the subject of a separate Award previously made to the Claimant.³

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 Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Reik. The Claimant's great-great-aunt's name matches the published name of Account Owner Reik.⁴ The Claimant identified Account Owner Reik's city and country of residence, which matches unpublished information about Account Owner Reik contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including an excerpt from the Vienna municipal records, indicating that Olga Reik was married to [REDACTED], with whom she resided in Vienna, providing independent verification that the person who is claimed to be Account Owner Reik had the same name and resided in the same city recorded in the Bank's record as the name and the city of residence of Account Owner Reik. The CRT notes that the Claimant did not identify Account Owner Wiesner. However, the CRT notes that the Claimant was not born until after the Second World War, and that she was only distantly related to Account Owner Reik. Accordingly, the CRT determines that it is plausible that the Claimant would not possess detailed information regarding Account Owner Reik's relatives and associates. However, the CRT notes that Account Owner Reik's maiden name was "Wiesner," rendering it likely that the Account Owners were related. The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Reik was a Victim of Nazi Persecution. The Claimant stated that Account Owner Reik was married to a Jewish spouse, and that they fled Vienna after the *Anschluss*. The CRT also notes that the 1938 Census records

³ See *In re Accounts of Hugo Reik and Anna Reik* (approved on 11 May 2005).

⁴ As noted above, the name Olga Reik was only published on the 2005 List.

submitted by [REDACTED], Account Owner Reik's husband, indicate that Olga and [REDACTED] were assessed flight tax (*Reichsfluchtsteuer*) of RM 47,972.00.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Reik by submitting specific information and documents, demonstrating that Account Owner Reik was the Claimant's great-great-aunt. These documents include an excerpt from the Vienna municipal records, indicating that Olga Reik was married to [REDACTED]; an excerpt from the city registry of Prostejova, Czechoslovakia (today the Czech Republic), indicating that [REDACTED] and [REDACTED] were brothers; a copy of a birth registry entry regarding [REDACTED], indicating that she was born to [REDACTED] and [REDACTED]; the birth certificate of [REDACTED], indicating that her mother was [REDACTED], née [REDACTED]; and the Claimant's birth certificate, indicating that her mother was [REDACTED 2], née [REDACTED]. The CRT notes that the Claimant did not identify Account Owner Wiesner. However, as noted above, Account Owner Reik's maiden name was "Wiesner," making it likely that the Account Owners were related. There is no information to indicate that Account Owner Reik has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the accounts were closed in July of 1938, several months after the *Anschluss*, when Account Owner Reik was still living in Austria; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 Owners or their 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's mother and the Claimant's aunt, whom the Claimant is representing. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Reik was married to the brother of her mother and aunt's grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts. Further, the CRT notes that the Claimant's mother and aunt have a better entitlement to the accounts than the Claimant, who is more distantly related to Account Owner Reik.

Amount of the Award

In this case, the Account Owners held one custody account and one demand deposit account. Pursuant to Article 29 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 current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”), and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owners, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. Moreover, according to Article 25(2), in cases where a joint account is claimed by relatives of only one or some of the joint account owners, it shall be presumed that the accounts were owned as a whole in equal shares by the account owners whose shares of the accounts have been claimed. In this case, the Claimant is representing her mother, [REDACTED 2], née [REDACTED], and her maternal aunt, [REDACTED 3], née [REDACTED], who are related to Account Owner Reik through her marriage to [REDACTED], the brother of their grandfather. The CRT notes that, as the daughter of [REDACTED 2], the Claimant is more distantly related to Account Owner Reik. Accordingly, the CRT determines that [REDACTED 2] and [REDACTED 3] are each entitled to one-half of the total award amount, and that the Claimant is not entitled to any portion of 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 claims 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
29 March 2006