

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Meta Rosay
also acting on behalf of Claude Rosay

in re Accounts of Amalia Rosenblüth and Thekla Merwin

Claim Number: 221186/MI/AC

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Meta Rosay, née Deuerling (the “Claimant”) to the accounts of Amalia Rosenblüth. This Award is to the published accounts of Amalia Rosenblüth (“Account Owner Rosenblüth”) and Thekla Merwin (“Account Owner Merwin”) (together “the Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).¹

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Rosenblüth as her late husband’s paternal aunt, Amalia Rosenblüth, who was not married. In a telephone conversation with the CRT on 3 August 2006, the Claimant’s son, Claude Rosay, stated that his father’s aunt, who was Jewish, resided in Vienna, Austria. The Claimant further indicated that her husband, Louis Rosay (formerly Rosenblüth), knew his aunt well and lived with her in Vienna for over a year, between 1933 and 1934. According to the Claimant, her husband’s father, Boris Rosenblüth, who lived in Poland, sent most of his money to his sister in Austria to be placed in a Swiss bank for safekeeping. The Claimant indicated that her husband’s parents and sister perished in concentration camps during the War, and the Claimant’s son indicated that his father’s aunt was likely also deported to a concentration camp, and that she was never heard from again. The Claimant indicated that she and her husband had contacted Swiss banks in the 1960s, attempting to locate and retrieve his family’s assets, but that their efforts were unsuccessful.

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”), Amalia Rosenblüth and Thekla Merwin are indicated as having two and three accounts, respectively. Upon careful review, the CRT has concluded that the Bank’s record evidences the existence of only two accounts, jointly held by Amalia Rosenblüth and Thekla Merwin.

The Claimant submitted copies of documents in support of her claim, including: (1) her husband's French military identity card, issued in 1945, indicating that Louis Rosenblüth, who was born on 16 July 1916, was a member of the French army, and that he was Jewish; (2) her husband's change of name certificate, issued on 22 December 1952 by the Ministry of Justice in Paris, France, indicating that Louis Rosenblüth changed his name to Louis Rosay; (3) her own marriage certificate, indicating that Meta Margareta Deuerling and Louis Rosay were married on 24 October 1959, and that Louis Rosay's parents were Boris Rosenblüth and Sonia Sarah Gussova; (4) her husband's death certificate, indicating that Louis Rosay was born on 16 July 1916, that he died on 29 July 1993, that his parents were Borris Rosenblueth and Sonia Gussonov, and that he was married to Meta Rosay, née Deuerling; and (5) correspondence between her husband and the Swiss Department of Justice, dated in 1964 and 1965, indicating that Louis Rosay inquired regarding Swiss bank accounts held by his father, Boris (Beresz) Rosenblüth, and that he was informed that no accounts were found.

The Claimant indicated that she was born on 3 June 1933 in Wolfsloch, Germany. The Claimant is representing her son, Claude Rosay, who was born on 13 January 1965 in Los Angeles, California, the United States.

The Claimant previously submitted an Initial Questionnaire ("IQ") to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Louis Rosay (Rosenblüth) or Boris Rosenblüth.²

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were *Frau* (Mrs.) Dr. Amalia Rosenblüth and *Frau* Thekla Merwin, both of whom resided in Vienna, Austria. The Bank's record indicates that the Account Owners held one custody account, which was numbered L56388, and one demand deposit account.

The Bank's record further indicates that the accounts were opened in 1936 and that they were closed on 21 April 1938. The amounts in the accounts on the date of their 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 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 Dr. Amalia Rosenblüth, numbered 32850. These records indicate that Amalia Rosenblüth was born on 10 May 1892, resided with her sister at Schottenfeldgasse 85/7 in Vienna VII, and was

² The CRT will treat the claim to these accounts in separate determinations.

not married. These records further indicate that Amalia Rosenblüth worked as a librarian in the Philosophy Institute at the University of Vienna, without salary for twenty-two years until 1928, and for 40 Austrian Schillings (“S”) a month from 1928 until 1938. According to the records, Amalia Rosenblüth was planning to emigrate from Vienna to Calcutta, India, with her sister. In a letter to the Central Office for Jewish Emigration (*Zentralstelle für jüdische Auswanderung*), dated 2 August 1939 and attached to a letter from her attorney, Friedrich Kaltenecker, to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*), Amalia Rosenblüth noted that she had been asked to pay 550.00 Reichsmark (“RM”) for the issue of her passport, but that such a payment would leave her with insufficient means to cover her and her sister’s living expenses and costs of emigration. She notes further that she had borne the costs of her brother’s emigration to British India, which with running expenses had reduced her assets to RM 1,750.00, with the last installment of atonement tax (*Judenvermögensabgabe*) remaining, amounting to RM 550.00, and the payment for her and her sister’s tickets to India due. These records further indicate that the financial detail relating to a property in which she had a mortgage interest was included in the 1938 Census declaration of Amalia Rosenblüth’s trustee, Dr. Magda Merwin. She also noted that the amount and other issues regarding this mortgage were in dispute and that legal proceedings were currently in progress. These records make no mention of assets held in a Swiss bank account.

In the records of the Austrian State Archive (Archive of the Republic, Finance), there are also documents concerning the assets of Thekla Merwin, numbered 32446. These records indicate that Thekla Merwin was born on 25 April 1887, resided at Ebensdorferstrasse 3 in Vienna I, and was widowed. According to these records, Thekla Merwin owned three-fourths of an investment property (*Zinshaus*) in Vienna, worth RM 60,000.00. These records indicate that on 27 July 1939, she was assessed flight tax (*Reichsfluchtsteuer*) of RM 15,931.00, based on estimated assets of RM 63,724.00. On 16 January 1940, this amount was amended downward to RM 9,295.00, based on total assets of RM 37,750.00. The amended assessment was addressed to *Fraulein* (Miss) Dr. Magda Merwin. These records make no mention of assets held in a Swiss bank account.

The CRT’s Analysis

Identification of the Account Owners

The Claimant’s husband’s aunt’s name and country of residence match the published name and country of residence of Account Owner Rosenblüth. The Claimant’s son identified Account Owner Rosenblüth’s city of residence, which matches information about Account Owner Rosenblüth contained in the Bank’s record and 1938 Census file.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Louis Rosay (Rosenblüth), prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of Victims of Nazi Persecution (“ICEP” or the “ICEP List”). This indicates that the Claimant 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 the Claimant had reason to believe that her husband's family owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT further 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 Account Owner Rosenblüth. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified Account Owner Rosenblüth.

The CRT notes that the Claimant did not identify Account Owner Merwin. However, given that the Account Owners do not share the same family name and that there is no indication in the Bank's record or the 1938 Census records that they were related, and given that the Claimant married her husband in 1959, the CRT determines that it is plausible that the Claimant would not be familiar with her husband's aunt's associates prior to the Second World War, and that her failure to identify Account Owner Merwin therefore does not affect the plausibility of her identification of Account Owner Rosenblüth.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Rosenblüth was a Victim of Nazi Persecution. The Claimant stated that Account Owner Rosenblüth was Jewish, that she resided in Austria after its incorporation into the Reich in March 1938 (the "*Anschluss*"), that her brother, sister-in-law, and niece perished in concentration camps, and that she was likely deported to a concentration camp, and was never heard from again.

Regarding Account Owner Merwin, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Thekla Merwin, and indicates that her date of birth was 13 April 1887, that she was deported from Vienna to Theresienstadt in 1942, that she was subsequently deported to Auschwitz in 1944, and that she perished in the Holocaust. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimant's Relationship to Account Owner Rosenblüth

The Claimant has plausibly demonstrated that she is related to Account Owner Rosenblüth by submitting specific information and documents, demonstrating that Account Owner Rosenblüth was the Claimant's husband's aunt. These documents include her husband's change of name certificate, indicating that Louis Rosenblüth changed his name to Louis Rosay, her own marriage certificate, indicating that Meta Margareta Deuerling was married to Louis Rosay, and that Louis Rosay's father was Boris Rosenblüth, and her husband's death certificate, indicating that Louis Rosay was married to Meta Rosay, and that his father was Borris Bosenblueth. There is no information to indicate that Account Owner Rosenblüth has surviving heirs other than the party whom the Claimant is representing.

The CRT further notes that the Claimant's son identified unpublished information about Account Owner Rosenblüth as contained in the Bank's record; and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between Account Owner Rosenblüth's nephew and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted copies of her husband's French military identity card, her husband's change of name certificate, her own marriage certificate, her husband's death certificate, and correspondence between her husband and the Swiss Department of Justice, which provide independent verification that the Claimant's relatives bore the same family name as Account Owner Rosenblüth. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Rosenblüth was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Rosenblüth, as she has asserted in her Claim Form.

The CRT notes that the Claimant did not indicate that she is related to Account Owner Merwin, and that there is no indication in the Bank's record or the 1938 Census records that the Account Owners were related.

The Issue of Who Received the Proceeds

Given that that Account Owners resided in Austria after the *Anschluss*; that Account Owner Rosenblüth was likely deported to a concentration camp, where she perished; that Account Owner Merwin perished in a concentration camp; 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 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 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 represented party Claude Rosay. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Rosenblüth was her husband's aunt, 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 represented party Claude Rosay, as Account Owner Rosenblüth's great-nephew, has a better entitlement to the accounts than the Claimant, the Account Owner's nephew's spouse.

Amount of the Award

In this case, the Account Owners held one demand deposit account and one custody 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 ICEP (the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”), and the average value of a custody account was SF 13,000.00. 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

As noted above, the accounts at issue were joint accounts. According to Article 25(2) of the Rules, 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 account was owned as a whole in equal shares by the Account Owners whose shares of the account have been claimed. Therefore, the CRT has determined that in the absence of any claims to Account Owner Merwin’s share of the accounts, for the purposes of this award, the accounts shall be treated as if they were owned as a whole by Account Owner Rosenblüth.

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. In this case, the Claimant is representing her son, Claude Rosay, who as a great-nephew of Account Owner Rosenblüth and a descendant of Account Owner Rosenblüth’s parents, has a better entitlement than the Claimant, who is related to Account Owner Rosenblüth by marriage only. Accordingly, Claude Rosay is entitled to the total award amount. As noted above, the Claimant is not entitled to a share in the 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 claim 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
17 November 2006