

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Account of *Rosenfeld & Co.*

Claim Number: 204200/SJ

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of [REDACTED].² This Award is to the unpublished account of *Rosenfeld & Co.* (the “Account Owner”) at the [REDACTED] (the “Bank”).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 a bank by the name of *Rosenfeld & Co.*, which was owned by his paternal great-uncle, [REDACTED], who was born on 24 January 1860 in Austria-Hungary (later Czechoslovakia, today Czech Republic) and was married to [REDACTED] in Vienna, Austria. The Claimant stated that his great-uncle’s bank was located at Rathausstrasse 20, Vienna I, until 1938. The Claimant further stated that [REDACTED], who was Jewish, fled Vienna with his wife after the incorporation of Austria into the Reich in March 1938 (the *Anschluss*), and went to the Hotel Steinbock in Chur, Switzerland. The Claimant further indicated that Sigmund and [REDACTED] had no children. The Claimant asserted that his great-uncle died in 1943 in Chur, and that his wife also died in Switzerland sometime thereafter.

The Claimant submitted the death certificate of [REDACTED], indicating that his father was [REDACTED]; the marriage certificate of his paternal grandmother, [REDACTED] and [REDACTED], indicating that [REDACTED]’s father was [REDACTED]; the birth certificate of the Claimant’s father, [REDACTED] (also listed as “[REDACTED]”), indicating that his parents were [REDACTED] and [REDACTED]; and the Claimant’s own birth certificate, indicating that his father was [REDACTED].

¹ The CRT notes that [REDACTED] passed away on 3 May 2002.

² The CRT will treat the claim to this account in a separate decision.

The Claimant indicated that he was born on 29 September 1912 in Budapest, Hungary.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998 asserting his entitlement to a Swiss bank account owned by [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of excerpts from the Bank's ledgers of demand deposit accounts and a printout from the Bank's database. According to these records, the Account Owner was *Rosenfeld & Co.* of Vienna, Austria. The Bank's records indicate that the Account Owner held a demand deposit account. The Bank's records further indicate that the account had a negative balance of 126.00 Swiss Francs ("SF") in 1921. The Bank's records also indicate that balances of SF 48,050.00; SF 23,540.00; and SF 24,800.00, were recorded, but do not indicate the corresponding balance dates.

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. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence that the Account Owner or its successors-in-interest closed the account 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 26344, and of his wife, [REDACTED], numbered 26345. These records indicate that [REDACTED], who was born on 24 January 1860, was a citizen of Czechoslovakia and lived at Rathausstrasse 20, Vienna I. These records also indicate that [REDACTED] was the largest shareholder of the bank *Rosenfeld & Co.*, with a 23 percent share which was worth 460,460.00 Reichsmark ("RM") as of April 27 1938, and that [REDACTED] held a 3 percent share, worth RM 60,060.00 in the bank. Further 21 percent and 3 percent shares were held by Julius Neustadt and Helene Neustadt, respectively, who lived at the same address as [REDACTED] and [REDACTED] and, thus, may have been relatives of [REDACTED] or [REDACTED]. The 1938 Census records also indicate that [REDACTED] held various securities worth RM 210,278.00 as well as bank assets and savings worth RM 165,191.06. These records make no mention of assets held in Swiss banks.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name of the bank owned by the Claimant's great-uncle, as well as the city where the bank was located, match the unpublished name and location of the Account Owner contained in the Bank's records. Furthermore, the 1938 Census forms confirm that [REDACTED], the Claimant's uncle, was the largest shareholder of the Account Owner. The CRT notes that there are no other claims to this account. Taking all of 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 largest shareholder of the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the largest shareholder of the Account Owner was Jewish, and that he fled from his home in Vienna in 1938 after the *Anschluss*.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to one of the owners of the Account Owner by submitting specific information and documents, demonstrating that the owner of the Account Owner was the Claimant's great-uncle. These documents include the death certificate of [REDACTED], indicating that his father was [REDACTED]; the marriage certificate of the Claimant's paternal grandmother, [REDACTED] and [REDACTED], indicating that [REDACTED]'s father was [REDACTED]; the birth certificate of the Claimant's father, [REDACTED] (also listed as "[REDACTED]"), indicating that his parents were [REDACTED] and [REDACTED]; and the Claimant's own birth certificate, indicating that his father was [REDACTED]. There is no information to indicate that the largest shareholder of the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to it, its owners or their heirs, or its successors-in-interest, nor any record of a date of closure of the account; that the Account Owner, its owners or their heirs, or its successors-in-interest 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 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, its owners, their heirs, or its successors-in-interest. 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 the bank owned by his great-uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, its owners, their heirs or its successors-in-interest received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The CRT notes that the Bank's records indicate that the account had a negative balance of SF 126.00 at some point in 1921, and at various times, balances of SF 48,050.00, SF 23,540.00 and SF 24,800.00. The CRT concludes that it is unable to rely on these values, as no balance date is recorded for three of these amounts, and as the value of the account appears to have fluctuated considerably. Consequently, the CRT is treating this account as an account of unknown value.

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 ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00 Swiss Francs. 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 26,750.00.

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
30 November 2005