

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Margot Ingeborg Lauchheimer

in re Accounts of Max Rosenheimer and Lothar Rosenheimer

Claim Number: 206909/AK

Award Amount: 325,000.00 Swiss Francs

This Certified Award is based upon the claim of Margot Ingeborg Lauchheimer, née Maas, (the “Claimant”) to the accounts of Wilhelm Maas and Cilly Maas.¹ This Award is to the accounts of Max Rosenheimer (“Account Owner Max Rosenheimer”) and Lothar Rosenheimer (“Account Owner Lothar Rosenheimer”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database (the “TAD”) at the Bank.

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 claiming accounts belonging to her parents, Cilly Maas, née Rosenheimer, and Wilhelm Maas. In a telephone conversation with the CRT on 11 March 2004, the Claimant identified the Account Owners as her maternal uncles, Lothar Rosenheimer, who was born in 1897 in Germany, and Max Rosenheimer, who was born in 1895 in Germany. The Claimant stated that both her uncles, who were Jewish, resided in Berlin, Germany, where Max owned a dress factory and Lothar a shoe manufacturing business. The Claimant stated that, in 1933 or 1934, Max and Lothar emigrated to New York, the United States, where they remained until their deaths in November 1959 and 1990, respectively. The Claimant indicated that Max Rosenheimer was married to Lotte Dans, who passed away in 1995, and that they had a son, Otto Michael Rosenheimer, who is still living. The Claimant further stated that Lothar Rosenheimer was married to Liselotte Rosenheimer, who is currently living in a nursing home and who had no children. In the telephone conversation, the Claimant added that she is certain that her relatives would have owned accounts in branches of banks in Basel, Switzerland, because Basel was the first town her parents arrived in after crossing the border between Switzerland and Germany.

¹ In a separate decision, the CRT awarded the Claimant the accounts of Wilhelm and Cilly Maas. See *In re Accounts of Wilhelm and Cilly Maas* (approved on 8 April 2004).

The Claimant stated that her mother, Cilly Maas, née Rosenheimer, was born on 5 April 1893 in Germany and was married in August 1919 in Germany to Wilhelm Maas, who was born on 17 June 1884 in Hemsbach, Germany. The Claimant stated that her father owned a leather business located at B. 6 20, in Mannheim, Germany, where he lived with his family, all of whom were Jewish, from 1919 until December 1937. The Claimant added that in December 1937, upon receipt of a temporary visa, her family fled to Arosa, Switzerland in order to escape Nazi persecution. The Claimant stated that for one year, until their visa expired, her family lived at *Haus Wittmer* in Arosa, and that they moved to Havana, Cuba in 1939. Finally, according to the Claimant, her family made their way to New York in 1940, where her father died in April 1969 and her mother died in May 1979.

In support of her claim, the Claimant submitted a detailed family tree and a copy of her birth certificate, listing her parents as Wilhelm Maas and Cilly Maas, née Rosenheimer, who resided in Mannheim, Germany. The Claimant also submitted a certificate from the authorities of the community of Arosa (*Einwohnerkontrolle Arosa*), dated 19 March 2001, which certifies that Cilly Maas and her daughter Margot, who was born on 4 March 1926, were registered with the Arosa authorities and resided in the community of Arosa beginning on 14 February 1938. The certificate indicates that the date of departure of Cilly and Margot Maas is not clear in the books, and that it could be either 30 September 1938 or 20 January 1939.

The Claimant indicated that she was born on 4 March 1926 in Mannheim, Germany. The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Wilhelm Maas and Cilly Maas, née Rosenheimer.

Information Available in the Bank’s Records

The Bank’s records consist of power of attorney forms, hold mail requests and a notice of receipt of the Bank’s rules of procedure. These records indicate the existence of two custody accounts at the Basel branch of the Bank, one in the name of Account Owner Max Rosenheimer, the other in the name of Account Owner Lothar Rosenheimer.

The notice of receipt of the Bank’s rules of procedure for open custody accounts indicates that Max Rosenheimer held a custody account numbered 36161. The notice was signed by Max Rosenheimer on 5 October 1930 in Berlin. By notice of 18 August 1931, Account Owner Max Rosenheimer requested the Bank to hold his mail. The records indicate that Account Owner Max Rosenheimer resided at Zimmerstrasse 48 b in Berlin S.W. 68, Germany, when he granted power of attorney for this custody account with two separate forms to Wilhelm Maas and Cilly Maas, the latter residing in Arosa, Switzerland. The first power of attorney form was signed in Basel, Switzerland on 30 September 1931. The second form was signed by Account Owner Max Rosenheimer in New York on 8 June 1938.

Two other power of attorney forms indicate that Account Owner Lothar Rosenheimer held a custody account numbered 36162 at the Basel branch of the Bank. According to the records, Account Owner Lothar Rosenheimer, who resided at Zimmerstrasse 48b in Berlin SW68,

Germany, granted power of attorney to Max Rosenheimer on 4 October 1930, and to Wilhelm Maas on 5 October 1931.

The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

These accounts were not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,² are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss Francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution. The accounts awarded are part of a group of accounts identified in the TAD.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's uncles' names and their city and country of residence match the unpublished names, as well as the unpublished city and country of residence of the Account Owners. The unpublished names of the Claimants' parents, Cilly and Wilhelm Maas, and the name of one of her uncles, Max Rosenheimer, match the names of the Power of Attorney Holders. The Claimant's mother's maiden name matches the Account Owners' unpublished last names. Additionally, the Claimant stated that her uncles emigrated to New York in 1933 or 1934, which matches unpublished information about Account Owner Max Rosenheimer, who signed one of the power of attorney forms in New York in 1938. The Claimant also stated that her mother resided in Arosa, Switzerland from 1937 to 1939, which matches unpublished information about Power of Attorney Holder Cilly Maas, who resided in Arosa in 1938. Finally, the Claimant identified Basel, Switzerland as a likely location for assets deposited by her family, which is consistent with unpublished information about the branch of the Bank where the accounts at issue were kept.

In support of her claim, the Claimant submitted documents, including a copy of her birth certificate, listing her parents as Wilhelm Maas and Cilly Maas, née Rosenheimer, who resided

² These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

in Mannheim, Germany. The Claimant also submitted a certificate from the authorities of the community of Arosa (*Einwohnerkontrolle Arosa*) dated 19 March 2001, which certifies that Cilly Maas and her daughter Margot, who was born on 4 March 1926, were registered with the Arosa authorities and resided in the community of Arosa beginning on 14 February 1938. The certificate indicates that the date of departure of Cilly and Margot Haas is not clear in the books, and that it could be either 30 September 1938 or 20 January 1939. These documents provide independent verification that the Claimant's parents had the same names as the Power of Attorney Holders Cilly and Wilhelm Maas, and that the Claimant's mother resided in the same city as the Power of Attorney Holder Cilly Maas.

The CRT notes that it previously awarded the Claimant the accounts of her parents, Cilly and Wilhelm Maas, the Account Owners' sister and her husband, based on the Claimant's identification of unpublished information about Cilly and Wilhelm Maas. The Claimant's ability to provide unpublished information about the relationship between Cilly and Wilhelm Maas and Max Rosenheimer and Lothar Rosenheimer, who were their brothers and brothers-in-law respectively, supports the Claimant's identification of the Account Owners. Furthermore, the CRT notes that other claims to these accounts were disconfirmed because those Claimants provided a different name and/or place of residence than the Account Owners' names and/or place of residence in this case. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owner as a Target of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled Germany for the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were her maternal uncles. These documents include a copy of her birth certificate, listing her parents as Wilhelm Maas and Cilly Maas, née Rosenheimer. The CRT notes that the birth certificate provides independent verification that the Claimant's mother's maiden name is the same as the Account Owners' last names. The CRT notes that the Claimant identified unpublished information about the Account Owners and the Power of Attorney Holders as contained in the Bank's records. Furthermore, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her claim.

The Claimant has indicated that Account Owner Max Rosenheimer had a son, Otto Michael Rosenheimer, who is still living, and that Account Owner Lothar Rosenheimer was married to Liselotte Rosenheimer, who is currently living in a nursing home. However, the CRT has not received any claims from Otto Michael Rosenheimer or from Liselotte Rosenheimer.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owners' accounts to them nor any record of a date of closure of the accounts; 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, the Power of Attorney Holders, 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. 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 her uncles, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Max Rosenheimer and Account Owner Lothar Rosenheimer held one custody account each. 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 custody account was 13,000.00 Swiss Francs ("SF"). 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 for both custody accounts of SF 325,000.00.

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 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) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
18 November 2004