

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Ernest Baden

in re Accounts of Franziska Rosenstern

Claim Number: 501154/AK

Award Amount: 53,500.00 Swiss Francs

This Certified Award is based upon the claim of Ernest Baden (the “Claimant”) to the published account of Franziska Rosenstern (the “Account Owner”) at 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 the Account Owner as his maternal grandmother, Franziska Rosenstern, née Küttner, who was born on 1 January 1867 in Berlin, Germany, and was married to Israel Rosenstern on 19 January 1892 in Berlin. The Claimant stated his grandmother, who was Jewish, resided at Frobenstrasse 26 and Dörnbergstrasse 2 in Berlin between 1933 and 1942, and that she worked as a teacher. The Claimant further stated that his grandmother was a widow, and that she had two children: Edith Sara Finkelstein, née Rosenstern and the Claimant’s mother, Jane Rose Baden, née Rosenstern, formerly known as Rohtraut Rosenstern. The Claimant stated that his grandmother was deported to the concentration camp in Theresienstadt on 18 June 1942, where she perished on 5 October 1942. The Claimant indicated that he is his grandmother’s only surviving heir, as his parents, his aunt Edith, and her husband are deceased. The Claimant also stated that his late mother told him that Franziska Rosenstern owned an account at the Bank, and that she contacted the Bank in 2000 inquiring into his grandmother’s accounts. The Claimant stated that after a second inquiry he was informed by the Bank on 12 October 2004 that his grandmother’s name was 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”).

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”), Franziska Rosenstern is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

The Claimant submitted the death certificate of his mother, Jane Baden, indicating that she died on 29 March 1992, that her mother was Franceska Kuttner, and that her son was Ernest Baden, the Claimant; the death certificate of his grandmother, showing that Frantiska Rosensternova, who resided in Berlin, perished in Theresienstadt on 5 October 1942; his grandmother's marriage certificate, stating that she was married to Israel Rosenstern on 19 January 1892 in Berlin; his own birth certificate, stating that his mother was Rohtraut Rosenstern; and his mother's will, documenting that her husband, Arthur Baden, and the Claimant, her son, are her only heirs.

The Claimant stated that he was born on 2 January 1924 in Berlin, Germany.

Information Available in the Bank's Record

The Bank's record consists of a registry card. According to this record, the Account Owner was Frau (*Mrs.*) Franziska Rosenstern, who temporarily stayed at the "*Pension Florhof*" at Florhofgasse 4 in Zurich, Switzerland. The Bank's record indicates that the Account Owner held two demand deposit accounts, which were closed on 17 July 1936 and 9 February 1938, respectively. Additionally, 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") indicated that the Account Owner resided in Berlin, that the amount in one of the demand deposit accounts was 4.00 Swiss Francs ("SF"), but they did not indicate the date of that balance. There is no evidence in the Bank's record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandmother's name and city and country of residence match the published name and city and country of residence of the Account Owner. In support of his claim, the Claimant submitted documents, including his grandmother's marriage certificate, showing that Franziska Kuttner and Israel Rosenstern were married in Berlin, and his grandmother's death certificate, showing that Franziska Rosenstern resided in Berlin, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Franziska Rosenstern, née Kuttner, who was born in 1867. The database also indicates that Franziska Rosenstern lived in Berlin and that she died in 1942 in Theresienstadt, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Franziska Rosenstern appears only once on the ICEP List. Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim 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 Owner was Jewish, and that she perished in Theresienstadt. As noted above, a person named Franziska Rosenstern was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandmother. These documents include his mother's death certificate, showing that Jane Baden was the Claimant's mother and the Account Owner's daughter. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the accounts were closed on 17 July 1936 and 9 February 1938, respectively. Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner was deported to Theresienstadt in 1942, where she perished, and that she would not have been able to repatriate her accounts to Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owner's accounts to her; that the Account Owner and her heirs would not have been able to obtain information about her 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; 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) and Appendix C,² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, or her heirs.

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 his grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

² Appendix C appears on the CRT II website -- www.crt-ii.org.

Amount of the Award

In this case, the Account Owner held two demand deposit accounts. The Bank's records indicate that the value of one of the demand deposit accounts was SF 4.00 on an unknown date. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. Regarding the second 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 ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00. The current value of the amount of the award is determined by multiplying the balances as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount is SF 53,500.00.

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
31 March 2005