

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Sigmund Rosenthal

Claim Number: 715394/BI¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], formerly [REDACTED], (the “Claimant”) to the published account of Sigmund Rosenthal (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as his paternal grandfather, Sigmund Rosenthal, and the Power of Attorney Holder as his father, Dr. Gustav Rosenthal. The Claimant indicated that his grandfather, who was Jewish, owned a textile import company named “*Sigmund Rosenthal & Sons*” at Apostoli Street 17, Bucharest, Romania, and that his father was the manager of the company. The Claimant stated that during the War his grandfather and his father were prevented from running their company and that parts of the company were transferred without their consent to non-Jewish owners. The Claimant did not provide any further details about the fate of his father or grandfather.

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered I-Q-HEB-0120-028, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 715394.

² The CRT notes that the name Sigmund Rosenthal appears 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”) and on the List of Account Owners Published in 2005 (the “2005 List”). Upon careful review, the CRT has determined that the first Sigmund Rosenthal, which appeared on the ICEP List, is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as his relative.

The Claimant indicated that he was born on 4 June 1938 in Bucharest.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Sigmund Rosenthal during their investigation of the Bank. The existence of an account at the Bank is evidenced by documents from the Swiss Federal Archive in Bern, Switzerland, which are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey").

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Sigmund Rosenthal, numbered 185. According to these records, the Account Owner was Sigmund Rosenthal, who resided at St. Apostoli Street 8, Bucharest 6, Romania, and the Power of Attorney Holder was Dr. Gustav Rosenthal. These records indicate that the Account Owner held a *Depositenkonto*, or time deposit account, which the CRT treats as an account of unknown type. According to these records, the account was opened on 14 July 1930 under the original account number of 3836, which was later changed to 19028. According to these records, the last contact with the Account Owner was prior to the end of the War, and the account was registered pursuant to the 1962 Survey. These records indicate that the balance in the account as of 1 September 1963 was 670.30 Swiss Francs ("SF"). These records indicate that, pursuant to the Federal Decree, a trustee was appointed to the Account Owner on 14 December 1966. The records do not contain information about the ultimate disposition of this account. There is no evidence in the Swiss Federal Archive's records that the Account Owner, the Power of Attorney Holder or their heirs closed the account 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 grandfather's name matches the published name of the Account Owner and the unpublished name of the Power of Attorney Holder. The Claimant identified the Account Owner's address, city and country of

residence, which match unpublished information about the Account Owner contained in the records of the Swiss Federal Archive.³

The CRT notes that the name Sigmund Rosenthal appears only once on the List of Account Owners Published in 2005 (the “2005 List”). The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Sigmund Rosenthal or Dr. Gustav Rosenthal, prior to the publication of the 2005 List. This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the 2005 List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

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, that during the War he was prevented from running his company and that parts of the company were transferred without his consent to non-Jewish owners.

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, demonstrating that the Account Owner was the Claimant’s grandfather. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner and the Power of Attorney Holder as contained in the records of the Swiss Federal Archive; and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication of the 2005 List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his IQ.

³ The CRT notes that the Claimant stated that his grandfather owned a company located at Apostoli Street 17, Bucharest, while the records from the Swiss Federal Archive indicate that the Account Owner’s address was St. Apostoli Street 8 in Bucharest. The CRT considers it plausible that the Claimant’s grandfather resided in another house number on Apostoli Street, near his company, or that the Claimant, who was a young child at the time, may not remember the exact house number in his grandfather’s address. In either case, the CRT concludes that this minor discrepancy does not affect the Claimant’s identification of the Account Owner.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the account was reported in the 1962 Survey; that the Account Owner and his heirs would not have been able to obtain information about his 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 Presumption (h), 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, the Power of Attorney Holder, 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 Owner was his grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one time deposit account, which the CRT treats as an account of unknown type. The records of the Swiss Federal Archive indicate that the value of the account as of 1 September 1963 was SF 670.30. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 955.30. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

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/she/they 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