

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]

in re Accounts of Amalie Roth and Leiser Roth

Claim Numbers: 219458/AX; 650027/AX²

Original Award Amount: 211,875.00 Swiss Francs

Award Amendment Amount: 105,937.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Amalie Roth. This Award Amendment is to the accounts of Amalie Roth (“Account Owner Amalie Roth”) and Leiser Roth (“Account Owner Leiser Roth”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments 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 owners, and the bank have been redacted.

Procedural History

On 14 July 2003, the Court approved an Award to Claimant [REDACTED 1] for the Account Owners’ accounts (the “July 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 2]. The CRT notes that although Claimant [REDACTED 2] had filed a timely claim to the awarded accounts, her claim was not available for consideration in the July 2003 Award. Subsequent review of Claimant

¹ On 14 July 2003, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the accounts of Amalie Roth and Leiser Roth (the “July 2003 Award”), which is the subject of this Award Amendment

² [REDACTED 2] (“Claimant [REDACTED 2]”) submitted a claim, numbered B-00393, on 5 June 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was forwarded by the HCPO to the CRT on 31 August 2004 and has been assigned Claim Number 650027. It is not clear why the claim was not forwarded to the CRT until that date.

[REDACTED 2]'s claim indicates that she is entitled to share in the original award amount, as detailed below.

The July 2003 Award

In the July 2003 Award, the CRT determined that the Account Owners owned one custody account and one account of unknown type. The CRT further determined that Claimant [REDACTED 1] had plausibly identified the Account Owners, that she plausibly demonstrated that she was related to the Account Owners, and that she made a plausible showing that the Account Owners were Victims of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their accounts. The CRT noted that the Bank's records did not indicate the value of the accounts, and therefore presumed that their combined value was 16,950.00 Swiss Francs ("SF"), and that the July 2003 Award amount was SF 211,875.00. Finally, the CRT determined that Claimant [REDACTED 1] was entitled to the entire award amount.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a claim to the Holocaust Claims Processing Office ("HCPO") identifying the Account Owners as her paternal aunt, Amalia Roth, née Hanfling, who was born in 1889 in Rudnick, Poland, and her aunt's husband, Leo Roth. Claimant [REDACTED 2] indicated that Amalia Roth was the sister of her father, [REDACTED]. Claimant [REDACTED 2] indicated that her aunt, who was Jewish, lived in Stuttgart, Germany before the Second World War, and that she fled Germany to Zurich in 1939 or 1940. Claimant [REDACTED 2] indicates that her aunt died in October 1979 in Brooklyn, New York, the United States. Claimant [REDACTED 2] indicated that she was born on 25 June 1929 in Dusseldorf, Germany.

Information Available in the Bank's Records

As detailed in the July 2003 Award, the Bank's records indicate the Account Owners' names, their city and country of residence, and their street address. The records indicate that the Account Owners held one custody account and one account of unknown type. The records indicate the closure date of the custody account, but not that of the account of unknown type. The Bank's records do not indicate the value of the accounts.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the

CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

Claimant [REDACTED 2]'s Identification of the Account Owners

The CRT notes that Claimant [REDACTED 2] has plausibly identified the Account Owners as her paternal aunt and uncle.³ Claimant [REDACTED 2]'s aunt's and uncle's names and city and country of residence match the published names and city and country of residence of the Account Owners.

The CRT notes that the names Leiser and Amalie Roth each appear only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Furthermore, the CRT notes that Claimant [REDACTED 2] identified the relationship between the Account Owners, despite the fact that Leiser and Amalie Roth were published separately on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List").

The CRT notes that Claimant [REDACTED 2] filed an HCPO Claim Form in June 1998, asserting her entitlement to a Swiss bank account owned by Amalia Roth of Stuttgart, prior to the publication of the ICEP List. This indicates that Claimant [REDACTED 2] 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 Claimant [REDACTED 2] had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2].

Status of the Account Owners as Victims of Nazi Persecution

As detailed in the July 2003 Award, the CRT has determined that the Account Owners were Victims of Nazi Persecution.

Claimant [REDACTED 2]'s Relationship to the Account Owners

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information, demonstrating that the Account Owners were Claimant [REDACTED 2]'s aunt and uncle. The CRT notes that Claimant [REDACTED 2] filed an HCPO Claim Form in 1998, identifying the relationship between the Account Owners and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, 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 Claimant [REDACTED 2] as family members, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owners, as she has asserted in her Claim Form.

³ The CRT notes that Claimant [REDACTED 2] indicated that Amalia's husband's name was Leo, while the Bank's records indicate that the joint account owner for Amalie Roth was Leiser Roth. The CRT further notes that Leiser is a Hebrew variation of the name Leo.

The Issue of Who Received the Proceeds

As detailed in the July 2003 Award, the CRT has concluded that it is plausible that the accounts' proceeds were not paid to the Account Owners or their heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owners were her aunt and uncle, and those relationships justify an Award. Third, the CRT determined in the July 2003 Award that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the July 2003 Award

As detailed in the July 2003 Award, the Account Owners held one custody account and one account of unknown type. 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00 and the average value of an account of unknown type was SF 3,950.00. Consequently, the total 1945 value of the custody account and the account of unknown type was SF 16,950.00.

At the time the July 2003 Award, the current value of this amount was 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 211,875.00.

New Division of the Award

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. Therefore, Claimant [REDACTED 1] and Claimant [REDACTED 2], as nieces of the Account Owners, are each entitled to half of the total award amount.

Amount and Division of the Award Amendment

Recognizing that over two years have passed since the July 2003 Award, and that there is no indication that Claimant [REDACTED 1] was aware that another equally entitled relative had filed a claim, the CRT determines that Claimant [REDACTED 2] is entitled to a payment from the Settlement Fund equaling her share of the award amount. As noted above, the total 1945 value of the custody account and the account of unknown type was SF 16,950.00. Claimant [REDACTED 2] is entitled to one-half of this amount, or SF 8,475.00. 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 an Award Amendment amount of SF 105,937.50.

Claimant [REDACTED 2] is entitled to the full amount of the Award Amendment.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which 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 Amendment

The CRT certifies this Award Amendment for approval by the Court.

Claims Resolution Tribunal
3 March 2006