

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Amalie Roth and Leiser Roth

Claim Number: 219458/AY

Award Amount: 211,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Amalie Roth. This Award 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 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 owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire identifying Account Owner Amalie Roth as her maternal aunt, Amalie Roth, née [REDACTED], who was born in 1889 in Rudnick, Poland, and was married to Leiser (Leo) Roth in 1914 or 1915 in Rudnick. The Claimant indicated that her aunt resided at Tübingerstrasse and Hohestrasse in Stuttgart, Germany. The Claimant stated that Account Owner Leiser Roth was a partner in a feather business in Stuttgart, and that her aunt owned a store for bridal goods in Stuttgart. The Claimant indicated that her aunt used to travel to Zurich, Switzerland, to buy products for her business. The Claimant further indicated that among her aunt’s clients were persons named Dr. Weil and Dr. Wolf, both of whom resided in Zurich. According to the Claimant, her aunt owned bank accounts in Switzerland because she could earn higher interest there. The Claimant stated that her aunt, who was Jewish, had no children of her own, and that because she was her aunt’s favorite niece, she used to spend a lot of time with her aunt. The Claimant further stated that when she was seven years old, she was sent by her parents from their home in Poland to live with her aunt, and that three years later she returned to her parents, who by that time had moved to Berlin, Germany, where the Claimant then attended a Jewish school. The Claimant indicated that her aunt was very wealthy and frequently provided the Claimant with many beautiful gifts. The Claimant further indicated that she often traveled on holidays with her aunt.

The Claimant stated that her family had planned to escape to the United States, but because the quota for Polish immigrants was already filled, her parents could not leave Europe, and they sent the Claimant back to live with her aunt. The Claimant stated that in February 1939 she traveled with her aunt to Switzerland, where they visited Zurich, Basel, Kandersteg and an additional town, the name of which the Claimant cannot remember. The Claimant indicated that on her trip to Switzerland, her aunt's friends tried to help the Claimant obtain the necessary documentation to remain there, but they were unsuccessful. The Claimant stated that her aunt continued to reside in Stuttgart until the end of 1939, when she was able to flee to Switzerland. The Claimant indicated that her aunt received permission to stay in Switzerland because of her business connections, but that she, the Claimant, was forced to remain behind in Germany.

The Claimant stated that her father was not able to flee Germany, and that he was deported to the Sachsenhausen-Oranienburg concentration camp, where he perished. The Claimant indicated that her mother also perished in a concentration camp. The Claimant further indicated that her uncle Leiser perished in 1940 in the Bergen-Belsen concentration camp. The Claimant stated that her aunt resided in Switzerland until 1948, when she moved to New York, where she passed away in 1979. In support of her claim, the Claimant submitted a photograph of herself and her aunt while on their trip in 1939 to Kandersteg, Switzerland. The Claimant stated that she was born on 14 April 1923 in Stuttgart.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account in Zurich owned by Amalie Roth of Stuttgart, Germany.

Information Available in the Bank's Records

The Bank's records consist of a ledger card, a numbered account customer card and printouts from the Bank's database. According to these records, the joint Account Owners were Amalie Roth and Leiser Roth, who resided at Tübingerstrasse 27 in Stuttgart, Germany. The Bank's records indicate that the Account Owners held two numbered accounts, one of which was a custody account, registered by the Bank under the number 19623, which was opened on 8 June 1936 and closed on 10 December 1936, and one account of unknown type, numbered 11768, which was opened on an unknown date and closed on an unknown date. The amounts in the accounts on the dates of their closure are unknown, and it is also unknown who closed them. 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 the account of unknown type 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. The Bank's records also show that the Bank was instructed to hold all correspondence to the Account Owners. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her aunt's and uncle's names match the published names of the Account Owners. Despite the fact that the Account Owners were listed separately on the list of bank accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), the Claimant identified them as being related, which matches unpublished information about the Account Owners contained in the Bank's records. The Claimant also identified her aunt and uncle's street address, which matches unpublished information about the Account Owners contained in the Bank's records.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Amalie Roth of Stuttgart, Germany, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant 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 the Claimant 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 the Claimant. The CRT also notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence than the country of residence of the Account Owner.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that Account Owner Amalie Roth was forced to flee Germany in 1939, and Account Owner Leiser Roth perished in the Bergen-Belsen concentration camp in 1940.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by providing detailed biographical information and a photograph of herself with Account Owner Amalie Roth. There is no information to indicate that the Account Owners had other surviving heirs.

The Issue of Who Received the Proceeds

With respect to the custody account closed in 1936, given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; given that Account Owner Amalie Roth remained in Germany until 1939 and the death of Account Owner Leiser Roth in a concentration camp, and they would not have been able to repatriate their account to Germany without its confiscation; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and

Appendix C,¹ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not the Account Owners or their heirs received the proceeds of their accounts.

With respect to the account of unknown type, taking into account the probable confiscation of the Account Owners' custody account; given that there is no record of the payment of the Account Owners' accounts to them; 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 Owners or their 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 Owners were her aunt and uncle, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, 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 on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs and the average value of an account of an unknown type was 3,950.00 Swiss Francs. Consequently, the total value of the custody account and the account of an unknown type was 16,950.00 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 211,875.00 Swiss Francs.

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).

¹ Appendix C appears on the CRT II website -- www.crt.ii.org.

Certification of the Award

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

Claims Resolution Tribunal
July 15, 2003