

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Accounts of Dr. Hugo Roth

Claim Numbers: 209037/JT; 211783/JT¹

Award Amount: 1,401,277.92 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Dr. Hugo Roth (the “Account Owner”) at the Zurich branch of the [REDACTED].

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 1] has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] filed a Claim Form identifying the Account Owner as her maternal grandfather, Dr. Hugo Roth, who was born on 8 April in Ungvar, Transylvania (which is now a part of the Ukraine), sometime in the late 1880s. Claimant [REDACTED 1] indicated that her grandfather, who was Jewish, married [REDACTED], and that they had two children: [REDACTED], née [REDACTED], who was born on 14 May 1915 in Cluj, Romania and died on 13 March 1972 in Richmond, Surrey, England; and [REDACTED], who was born on an unknown date in Cluj and died on an unknown date in Vienna, Austria. [REDACTED] had one child, the Claimant, and [REDACTED] had one child, [REDACTED].

Claimant [REDACTED 1] stated that her grandfather was a lawyer, that he lived at Petru Groza and Deak Fereno in Cluj, and that his office was located at Deak Ferencz in Cluj. Claimant [REDACTED 1] further stated that her grandfather was a millionaire and that he frequently traveled to Switzerland on vacation. Claimant [REDACTED 1] indicated that her grandfather

¹ Claimant [REDACTED 2] submitted additional claims, which are registered under the Claim Numbers 211782, 211784, 211785, 211786, 211787, and 211788. The CRT will treat these claims in separate decisions.

spent time in Switzerland prior to the Second World War, and that he deposited his assets in Swiss banks at that time.

According to the information provided by Claimant [REDACTED 1], her grandfather was arrested by the German SS. After his release, he was forced to hide in Romania and Hungary to escape extermination by the Nazis. Claimant [REDACTED 1] stated that her grandfather returned to Cluj in 1945, but that the Nazis had seized and looted all of his assets during the War. Claimant [REDACTED 1] further stated that her grandfather left Romania for Israel in 1951, and that he died in Haifa, Israel on 11 May 1951. His wife also died in Haifa some time during the 1950s.

In support of her claim, Claimant [REDACTED 1] submitted documents including a family tree, her grandfather's Last Will and Testament, dated 6 May 1939 and amended on 27 March 1944, and a copy of her grandmother's Last Will and Testament, identifying her as [REDACTED], née [REDACTED].

Claimant [REDACTED 1] indicated she was born on 13 June 1940 in Tours, France.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form and an Initial Questionnaire in which he identified the Account Owner as his wife's father, Dr. Hugo Roth. Claimant [REDACTED 2] stated that his father-in-law was a lawyer in Cluj, Romania, where he had his office at Deak Ferencz, and that he had a daughter out of wedlock, [REDACTED], Claimant [REDACTED 2]'s late wife. Claimant [REDACTED 2] stated further that Hugo Roth provided for this daughter until his death in 1950 or 1951. Claimant [REDACTED 2] asserted that Hugo Roth had bank accounts in Switzerland, the United States and England, and that [REDACTED] would have been entitled to them as Hugo Roth's heir.

Furthermore, Claimant [REDACTED 2] stated that [REDACTED] was born in 1925 in Cluj, where she lived until 1944. Claimant [REDACTED 2] stated that [REDACTED], who was Jewish, was deported to Auschwitz-Birkenau and subsequently was forced to work as slave laborer in the Lenzing concentration camp in Austria. Claimant [REDACTED 2] further stated that [REDACTED], having survived the concentration camps, returned to Cluj after the end of the War, where she lived until 1949, when she moved to Bucharest, Romania, and married Claimant [REDACTED 2]. Claimant [REDACTED 2] stated that his wife was a journalist and a translator and died in 1970 in Bucharest. In support of his claim, Claimant [REDACTED 2] submitted documents including a family tree, his wife's death certificate identifying her as [REDACTED], and a probate decision demonstrating that he is his wife's sole heir.

Claimant [REDACTED 2] indicated that he was born on 30 April 1926 in Cluj.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Dr. Hugo Roth, the father of his wife, [REDACTED], née [REDACTED].

Information Available in the Bank Records

The bank records consist of a customer-opening card, extracts from account ledgers, and printouts from the Bank's database. According to these records, the Account Owner was Dr. Hugo Roth who resided in Prague, Czechoslovakia and Cluj (Klausenberg), Romania. The bank records indicate that the Account Owner held a custody account, numbered L60419, one demand deposit without an account number, and one demand deposit account, numbered 411 467.

The custody account was opened on 28 May 1938 and closed on 27 July 1939, unknown to whom. The bank records show that the custody account contained two gold bars, weighing a combined 22.6113 kilograms, with a total value of 77,544.50 Swiss Francs as of 13 July 1936.²

The demand deposit account with an unknown account number was opened on an unknown date and closed on 31 May 1947, unknown to whom and the amount on the date of its closure is also unknown.

The bank records do not show when the demand deposit account, numbered 411 467, was opened and closed, or to whom it was paid. The amount in the account as of 17 November 1964 was 1,955.00 Swiss Francs. 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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. The auditors indicated that there was no evidence of activity on this account after 1945.

There is no evidence in the bank records that the Account Owner or his heirs closed any of these accounts or withdrew any of their contents.

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.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Claimant [REDACTED 1]'s grandfather's name and Claimant [REDACTED 2]'s father-in-law's name match the published name of the Account Owner. The Claimants identified their relative's city of residence in Romania and his title, which match unpublished information about the Account Owner contained in the bank records. In support of her claim, Claimant [REDACTED 1] submitted documents, including a family tree, her grandfather's Last Will and Testament and her birth certificate,

² The value of the gold bars in 1945, according to information provided to the CRT by the Swiss National Bank, was 4,970.00 Swiss Francs per kilo.

identifying her mother as [REDACTED], née [REDACTED]. In support of his claim, Claimant [REDACTED 2] submitted a family tree and a copy of his late wife's death certificate, identifying her as [REDACTED], Claimant [REDACTED 2]'s wife. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he was arrested by the German SS, and that after his release he hid from the Nazis in Romania and Hungary to avoid extermination by the Nazis.

The Claimant's Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that he was her grandfather. Claimant [REDACTED 2] has also plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he was his father-in-law.

The Issue of Who Received the Proceeds

With regard to the custody account closed on 27 July 1939, given the persecution of Jews in Romania by the Romanian government supported by the Nazi regime which began in December 1937; the confiscation of Jewish assets prior to and during the Second World War; and the application of Presumptions (a), (h), (i) 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 Owner or his heirs.

With regard to the demand deposit account closed on 31 May 1947, given the application of Presumptions (h), (i) 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 Owner or his heirs.

With regard to the demand deposit account, numbered 411 467, given that the account remained open until at least 17 November 1964, after the death of the Account Owner, and the application of Presumptions (b), (h), (i) 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 Owner or his heirs. Additionally, for Account Owners who were citizens of Romania, it is possible that the proceeds of their Swiss accounts were paid by Switzerland to Romania, as part of an arrangement between the two countries concluded in 1951. Swiss banks froze Romanian assets in 1948 pursuant to a Decree of the Swiss Federal Council. Romanian accounts were unfrozen in October 1950 and approximately one year later, in August 1951, Switzerland and Romania entered into an arrangement whereby unclaimed assets held by Romanian citizens in Swiss banks were to be transferred to the Romanian Government in return for compensation for Swiss property that had been nationalized by Romania's communist regime. Dormant accounts were subject to transfer to the Romanian Government under this arrangement. Where, as here, the

CRT has concluded that there is a substantial likelihood that the Swiss Government, which is a Releasee under the Settlement of the Holocaust Victim Assets Litigation, seized an account to use it to obtain compensation for Swiss citizens, and the CRT has determined accordingly that neither the Account Owner nor his or her heirs received the proceeds of the account, it is fully consistent with the Settlement to pay the Claimant the proceeds of the account.

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 Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and two demand deposit accounts.

The bank records indicate that the custody account contained gold bars which had a value of 112,378.16 Swiss Francs in 1945. The present value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an amount of 1,348,537.92 Swiss Francs.

The bank records do not indicate the value of the demand deposit account closed on 31 May 1947. 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an amount of 25,680.00 Swiss Francs.

The bank records indicate that the value of the demand deposit account, numbered 411 467, as of 17 November 1964 was 1,955.00 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 300.00 Swiss Francs, which reflects standardized bank fees charged to the demand deposit account between 1945 and 17 November 1964. There was no interest paid to the account at issue. Consequently, the adjusted balance of the account at issue is 2,255.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an amount of 27,060.00 Swiss Francs.

Consequently, the total award amount is 1,401,277.92 Swiss Francs.

Division of the Award

According to Article 23(1) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] is the grandchild of the Account Owner and the Account Owner was the father of Claimant [REDACTED 2]'s late wife.

Claimant [REDACTED 1] has a first cousin, [REDACTED], who has a daughter, [REDACTED]. However, Claimant [REDACTED 1] is not representing them in these proceedings and the CRT notes that to date they have not filed Claim Forms with the CRT or Initial Questionnaires.

According to Article 23(2), if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, Claimant [REDACTED 1] submitted the Account Owner's will which bequeaths his estate to his children, [REDACTED] and [REDACTED], Claimant [REDACTED]'s mother. The will further bequeaths portions of his estate to his grandchildren, [REDACTED] and [REDACTED] (the Claimant). The Account Owner's will does not include Claimant [REDACTED 2] or his late wife as a beneficiary.

The CRT notes that because [REDACTED], Claimant [REDACTED 1]'s cousin and a beneficiary of his grandfather's will, did not submit a Claim Form or Initial Questionnaire and is not represented in these proceedings, he is not entitled to a portion of the total award amount.

Accordingly, Claimant [REDACTED 1] is entitled to 100% of the total award amount.

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

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

Claims Resolution Tribunal
May 15, 2003