

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Edith Telsner

in re Accounts of Edith Roth

Claim Number: 500634/GO

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Edith Telsner, née Roth, (the “Claimant”) to the account of Jakob Roth.¹ This Award is to the published accounts of Edith Roth (the “Account Owner”) at 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 owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying herself as the Account Owner, Edith Telsner, née Roth, who was born on 1 October 1919 in Vienna, Austria, and was married to [REDACTED] on 12 May 1945 in New York, New York, the United States. The Claimant indicated that her parents were [REDACTED] and [REDACTED], née [REDACTED], and that she had one brother, [REDACTED]. The Claimant stated that she and her family resided at Rögergasse 27 in Vienna, and that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), her father was fired from his job and his assets were confiscated, and that after the *Kristallnacht* (the Night of Broken Glass) pogrom, he was deported to Dachau. In a telephone conversation with the CRT, the Claimant’s daughter stated that her mother, who was Jewish, resided in Vienna until 1939, when she fled to the United States, and that her grandfather, [REDACTED] (the Claimant’s father), was released from Dachau and fled with the Claimant’s mother to England in spring 1939.

The Claimant submitted copies of documents, including: (1) her own birth certificate, indicating that Edith Roth was born on 1 October 1919 in Vienna, and that her parents were [REDACTED] and [REDACTED]; (2) her own school attendance certificate, issued on 17 September 1992 and indicating that Edith Roth was a student in Vienna from 1933 to 1935; (3) a document, dated 12 February 1993, issued by the United States Department of Justice and indicating that Edith Roth

¹ The CRT will treat the claim to this account in a separate determination.

entered the United States on 22 May 1939, and that she was born in Vienna; (4) a confiscation document (*Beschlagnahmeverfügung*), numbered 28296 & 28295, dated 24 June 1941 in Vienna, and issued by the Gestapo, indicating that assets of [REDACTED] and [REDACTED], and their children: Edith and [REDACTED], were seized (*beschlagnahm*); (5) her own American certificate of naturalization, issued on 15 January 1945, bearing her signature and indicating that Edith Roth was formerly an Austrian national, and that she resided in New York; (6) her own marriage certificate, dated 12 May 1945, indicating that [REDACTED] and Edith Roth, who was born on 1 October 1919 in Vienna, were married on 12 May 1945 in New York; (7) her own Jewish marriage certificate, indicating that [REDACTED] and Edith Roth were both Jewish, and that they were married on 12 May 1945 in New York.

The Claimant indicated that she was born on 1 October 1919 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frl.* (Miss) Edith Roth who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one demand deposit account, which was opened on 20 September 1927 and closed on 20 August 1951, and one custody account, which was opened on 31 October 1927 and closed on 29 November 1940.

The amounts in the accounts on the dates of their closure are unknown. 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's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's marital status and city of residence, which match unpublished information about the Account Owner contained in the Bank's record. The CRT notes that the Claimant was a child at the time the accounts were opened, but finds it plausible that the accounts may have been opened in her name by her parents.

In support of her claim, the Claimant submitted copies of documents, including: her own birth certificate, her own school attendance certificate, a document issued by the U.S. Department of Justice, a confiscation document, her own American certificate of naturalization, and her own marriage certificates, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and city of residence of the Account Owner.

The CRT notes that the name Edith Roth appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution (“ICEP” or the “ICEP List”).

The CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1998 asserting her entitlement to a Swiss bank account owned by Jakob Roth, 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, 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 family 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 notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 she was Jewish, that she fled Austria in 1939, after the *Anschluss*, and that her family’s assets were confiscated by the Nazis.

The Claimant also submitted copies of documents, including: a confiscation document, dated 24 June 1941, and issued by the Gestapo, indicating that her assets were seized; and her own marriage certificate, indicating that she is Jewish.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is the Account Owner by submitting specific information and documents.

These documents include her own birth certificate, her own school attendance certificate, a document issued by the U. S. Department of Justice, a confiscation document, her own American certificate of naturalization, and her own marriage certificates. 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 Account Owner held one custody account and one demand deposit account.

With respect to the custody account, the Bank’s record indicates that it was closed on 29 November 1940, at which time, according to information provided by the Claimant, the Account Owner were outside Nazi-dominated territory. However, given that Bank’s record does not indicate to whom the account was closed, that the Account Owner fled her country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in her country of

origin and she may therefore have yielded to Nazi pressure to turn over her account to ensure their safety, that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 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 Owner.

With respect to the demand deposit account, the Bank's record indicates that it was closed on 20 August 1951. Given that the Account Owner fled Austria in 1939; that there is no record of the payment of the Account Owner's accounts to her; that the Account Owner's assets were confiscated by the Nazis in 1941; that the Account Owner 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; and given the application of Presumptions (h) 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.

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 she is Account Owner and that 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.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody 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 2,140.00 Swiss Francs ("SF"), and the average value of a custody account was SF 13,000.00. Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00. 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 a total award amount of SF 189,250.00.

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 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).

Certification of the Award

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

Claims Resolution Tribunal
19 December 2007