

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3], and [REDACTED 4]

and to Claimant [REDACTED 5]

in re Account of Erika Roth

Claim Numbers: 300662/JW; 708243/JW^{1,2}

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 5], née [REDACTED] (“Claimant [REDACTED 5]”) (together the “Claimants”) to the published account of Erika Roth (the “Account Owner”) at the Biel 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 owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his mother, Erika Deiml, née Roth, who was born on 6 August 1925 in Märtsch-Ostrau, Czechoslovakia (now Ostrava, Czech Republic), and was married to [REDACTED 2] on 15 March 1948 in Prague, Czechoslovakia (now Czech Republic). Claimant [REDACTED 1] stated that his maternal grandfather, [REDACTED], opened an account for his daughter before the Second World War. According to Claimant [REDACTED 1], his mother’s family members,

¹ Claimant [REDACTED 5] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), GER-0003-185, 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 the claim number 708243.

² Claimant [REDACTED 5] submitted an additional IQ, which is registered under the Claim Number 708744. The CRT will treat this claim in a separate determination.

who were Jewish, lived in Ostrau from 1925 until 1942, when they were deported to Theresienstadt, where his mother's father, [REDACTED], perished. Claimant [REDACTED 1] stated that his mother and grandmother were deported to Auschwitz in 1944, and subsequently to Gross-Rosen, and that his mother was eventually deported to Bergen-Belsen, where she was liberated in 1945. Claimant [REDACTED 1] indicated that his parents had three children: [REDACTED 3], née [REDACTED], [REDACTED 4] and Claimant [REDACTED 1] himself. Claimant [REDACTED 1] indicated that his mother died on 5 October 1976 in Tel Aviv, Israel.

In support of his claim, Claimant [REDACTED 1] submitted copies of: (1) his birth certificate, indicating that [REDACTED 1] was born on 20 August 1949 in Prague, and that his parents were [REDACTED 2] and Erika Deiml, née Roth; (2) his mother's birth certificate, indicating that Erika Roth was born on 6 August 1925, and; (3) his parents' marriage certificate, indicating that Erika Roth was married to [REDACTED 2] on 15 March 1948 in Prague.

Claimant [REDACTED 1] indicated that he was born on 20 August 1949 in Prague. Claimant [REDACTED 1] is representing his father, [REDACTED 2], who was born on 28 February 1921 in Beroun, Czechoslovakia (now Czech Republic), his brother, [REDACTED 4], who was born on 28 September 1950 in Prague, and his sister, [REDACTED 3], née [REDACTED], who was born on 3 April 1960 in Prague.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted an Initial Questionnaire identifying the Account Owner as herself, [REDACTED 5], née [REDACTED], born on 14 February 1927 in Vienna, Austria. Claimant [REDACTED 5] indicated that she resided at Alsergasse 59 in Vienna until 1938, when she fled to Belgium and France. According to Claimant [REDACTED 5], who is Jewish, she was deported to the Les Milles concentration camp in Marseille, France in 1940. Claimant [REDACTED 5] stated that her family fled to Switzerland in 1942, and that she was subsequently detained in a camp in the French-speaking region of Switzerland, where she was under police and military supervision. Claimant [REDACTED 5] stated that she was subsequently sent to a work camp in the Italian-speaking region of Switzerland, and that she was later repatriated to France in 1945. Claimant [REDACTED 5] indicated that she was born on 14 February 1927 in Vienna.

Claimant [REDACTED 5] submitted an additional Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by her grandfather, [REDACTED].³

Information Available in the Bank's Records

The Bank's records consist of a list of accounts and printouts from the Bank's database. According to these records, the Account Owner was Erika Roth. These records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, numbered 32775. The Bank's records further

³ The CRT will treat the claim to this account in a separate determination.

indicate that there had been no contact with the Account Owner since 29 February 1944. The Bank's records indicate that the account was transferred to a suspense account on 28 February 1977, as of which date the account had a balance of 6.10 Swiss Francs ("SF"). The account remains suspended.

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

Claimant [REDACTED 1]'s mother's name and Claimant [REDACTED 5]'s name both match the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than her name. The CRT notes that Claimant [REDACTED 1]'s mother and Claimant [REDACTED 5] would have been children at the time the account was active, but finds it plausible that the account may have been opened in either of their names by their parents.

In support of his claim, Claimant [REDACTED 1] submitted documents, including copies of his mother's birth certificate, his birth certificate, and his parents' marriage certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that the name Erika Roth appears only once on the February 2001 published 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 5] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Erika Roth, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 5] 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 her name, but rather on information that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 5] had reason to believe that she owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 5].

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 5] are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further

determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 5] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1]

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and that she was deported to Theresienstadt and subsequently to Auschwitz, Gross-Rosen, and Bergen-Belsen.

Claimant [REDACTED 5]

Claimant [REDACTED 5] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 5] stated that she is Jewish, that she fled Austria for France in 1938, and that she was subsequently deported to a concentration camp in 1940, after which she and her family fled to Switzerland, where they were interned in refugee camps.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s mother. These documents include his birth certificate, indicating that his mother was Erika Deiml, née Roth. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 1] is representing.

Claimant [REDACTED 5]

Claimant [REDACTED 5] has plausibly demonstrated that she is the Account Owner by submitting specific biographical information.

The Issue of Who Received the Proceeds

The Bank's records indicate that in 1977, the account was transferred to the Bank's suspense account, where it remains today.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants and represented parties [REDACTED 2], [REDACTED 3], and [REDACTED 4]. First, the claims are

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 his mother and Claimant [REDACTED 5] has plausibly demonstrated that she is the Account Owner, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held an account of unknown type. The Bank's records indicate that the value of the unknown account as of 28 February 1977 was SF 6.10. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 495.00, which reflects standardized bank fees charged to the account of unknown type between 1945 and 1977. Consequently, the adjusted balance of the account at issue is SF 501.10. 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.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and the parties whom he represents are entitled to share one-half of the Award amount, and Claimant [REDACTED 5] is entitled to one-half of the Award amount.

According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case, Claimant [REDACTED 1] is representing his father, [REDACTED 2], his brother, [REDACTED 4], and his sister, [REDACTED 3], née [REDACTED]. Accordingly, Claimant [REDACTED 1]'s father is entitled to one-fourth of the total Award amount, and Claimant [REDACTED 1], his brother, and his sister are each entitled to one-twelfth of the 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
17 November 2006