

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3], [REDACTED 4], and [REDACTED 5],

and to Claimant [REDACTED 6]
represented by [REDACTED]

in re Account of Joseph Roth

Claim Numbers: 210221/WT; 219165/WT;¹ 300662/WT²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Joseph Roth; the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Erika Roth; and the claim of [REDACTED 6] (“Claimant [REDACTED 6]”) (together the “Claimants”) to the account of Josef Roth. This Award is to the published account of Joseph Roth (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).³

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

¹ [REDACTED 6] (“Claimant [REDACTED 6]”) submitted two additional claims, which are registered under the Claim Numbers 219164 and 219166. In a separate decision, the CRT treated Claimant [REDACTED 6]’s claim to the account of Daniel Grosz. See *In re Account of Daniel Grosz* (approved on 4 August 2008). In another decision released 25 July 2007, the CRT treated Claimant [REDACTED 6]’s claim to the accounts of Eduard Shloss and Helen Shloss.

² In a separate decision, the CRT awarded the account of Erika Roth to [REDACTED 2] (“Claimant [REDACTED 2]”). See *In re Account of Erika Roth* (approved on 17 November 2006).

³ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Josef Roth appears once, and the name “Joseph Roth [Strasbourg, France]” also appears. Upon careful review, the CRT has determined that Joseph Roth [Strasbourg, France] is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her father, Joseph Roth, who was born in 1914 in the Transylvania region of Romania, and who was married to [REDACTED]. Claimant [REDACTED 1] indicated that her father, who was Jewish, was a furniture maker in Egeres, Transylvania (today Aghiresu, Romania). Claimant [REDACTED 1] stated that her parents sent her to Budapest, Hungary, for surgery when she was a child, and that during her recovery in Budapest, her family was arrested and deported to Auschwitz, where they perished in 1942 or 1943.

Claimant [REDACTED 1] submitted a copy of her birth certificate, indicating that she is the daughter of Josif Roth and [REDACTED].

Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Josif Roth.

Claimant [REDACTED 1] indicated that she was born on 15 September 1941 in Egeres.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his maternal grandfather, Josef Roth, who lived in Mährisch-Ostrau, Czechoslovakia (now Ostrava, the Czech Republic), and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that his grandfather, who was Jewish, lived in Ostrau from 1925 with his wife and daughter, [REDACTED] (Claimant [REDACTED 2]’s mother). Claimant [REDACTED 2] stated that in 1942, his grandfather was deported to Theresienstadt, where he perished.

Claimant [REDACTED 2] submitted copies of: (1) his own birth certificate, indicating that [REDACTED 2] was born on 20 August 1949 in Prague, and that his grandparents were Josef Roth and [REDACTED], née [REDACTED]; (2) his mother’s birth certificate, indicating that [REDACTED] was born on 6 August 1925, and that she was the daughter of Josef Roth and [REDACTED], née [REDACTED]; and (3) his parents’ marriage certificate, indicating that [REDACTED] was married to [REDACTED 3] on 15 March 1948 in Prague, and that she was the daughter of Josef Paul Roth and [REDACTED], née [REDACTED].

Claimant [REDACTED 2] indicated that he was born on 20 August 1949 in Prague. Claimant [REDACTED 2] is representing his father, [REDACTED 3], who was born on 28 February 1921 in Beroun, Czechoslovakia (now the Czech Republic); his brother, [REDACTED 5], who was born on 28 September 1950 in Prague; and his sister, [REDACTED 4], née [REDACTED], who was born on 3 April 1960 in Prague.

Claimant [REDACTED 6]

Claimant [REDACTED 6] submitted a Claim Form identifying the Account Owner as his mother's cousin, Josef Roth, who was born in 1900 in Tornaalja (now Tornal'a, Slovakia), and was married to [REDACTED] in 1919 in Tornaalja. Claimant [REDACTED 6] stated that his cousin, who was Jewish, owned several companies, including a construction company and a mill. Claimant [REDACTED 6] indicated that in 1944, his cousin was deported to Auschwitz, where he perished.

Claimant [REDACTED 6] previously submitted an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Josef Roth.

Claimant [REDACTED 6] indicated that he was born on 7 May 1914 in Kazmarok (now Kazmark), Slovakia.

Information Available in the Bank's Records

The Bank's records consist of three extracts from ledgers of suspended accounts. According to these records, the Account Owner was Joseph Roth. The Bank's 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.

The Bank's records indicate that the account was transferred to a suspense account on or before 26 June 1947. The amount in the account on the date of its transfer was 1,145.50 Swiss Francs ("SF). 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. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s father's name, Claimant [REDACTED 2]'s grandfather's name, and

Claimant [REDACTED 6]'s cousin's name match the published name of the Account Owner.⁴ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

Claimant [REDACTED 1]

In support of her claim, Claimant [REDACTED 1] submitted specific biographical information and documents, including her own birth 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 Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Josif Roth, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] 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 1] 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 1].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by Claimant [REDACTED 1] in 2005, which indicates that Josef Roth was born in 1913 and that he lived in Egeres, Transylvania, which matches the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Claimant [REDACTED 2]

In support of his claim, Claimant [REDACTED 2] submitted documents, including his own birth certificate; his mother's 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.

Claimant [REDACTED 6]

In support of his claim, Claimant [REDACTED 6] submitted specific biographical information, indicating that the Account Owner was his cousin. The CRT notes that Claimant [REDACTED 6] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Josef Roth, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 6] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the

⁴ The CRT notes that Claimant [REDACTED 2] indicated that his grandfather's first name was "Josef," and that Claimant [REDACTED 6] indicated that his cousin's first name was "Josef." However, given that "Josef" is a common variation of "Joseph," the CRT finds that this discrepancy does not adversely affect Claimant [REDACTED 2]'s and Claimant [REDACTED 6]'s identification of the Account Owner.

ICEP List. It also indicates that Claimant [REDACTED 6] had reason to believe that his 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 6].

The CRT notes that there are no other equally plausible claims to this account.⁵ The CRT further notes that Claimant [REDACTED 1]'s relative, Claimant [REDACTED 2]'s relative and Claimant [REDACTED 6]'s relative 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; and 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, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 6] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each 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 he was arrested and deported to Auschwitz, where he perished in 1942 or 1943. As noted above, a person named Josef Roth was included in the CRT's database of victims.

Claimant [REDACTED 2] stated that the Account Owner was Jewish, and that he was deported to Theresienstadt, where he perished in 1942.

Claimant [REDACTED 6] stated that the Account Owner was Jewish, and that in 1944 he was deported to Auschwitz, where he perished.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father. These documents include her own birth certificate,

⁵ As detailed in the section entitled "Information Available in the Bank's Records," very little information is available concerning the Account Owner in this case. Usually, in determining whether a claimant has identified an account owner as his or her relative, the CRT considers such factors as an account owner's city or country of residence, profession, nationality, and/or names of family members. Since such information about the account owner is not available in this case, the CRT considers other, more detailed and nuanced factors. Such factors include, but are not limited to, whether a claimant identified an exact spelling of the account owner's name; whether the claimant was able to provide documentation linking his or her surname to that of the account owner, thereby demonstrating a familial relationship to a person with the same name as the account owner; whether a claimant identified the account owner's name prior to its publication, or despite the fact that the name was never published; and/or whether the fate of the claimant's relative is consistent with the disposition of the claimed account. Based upon these considerations, matches between this account and less plausible claims were disconfirmed, and those claims were excluded from this decision.

indicating that [REDACTED 1] was the daughter of Josif Roth. There is no information to indicate that the Account Owner has other surviving heirs. The CRT further notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List; and that Claimant [REDACTED 1] also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 2]

Claimant [REDACTED 2] 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 2]'s grandfather. These documents include his own birth certificate, indicating that [REDACTED 2] is the grandson of Josef Roth. There is no information to indicate that the Account Owner has surviving heirs other than the parties who Claimant [REDACTED 2] is representing. The CRT further notes that Claimant [REDACTED 2] submitted a copy of his parent's marriage certificate. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. The CRT further notes that Claimant [REDACTED 6] submitted a copy of his mother's birth certificate, which provides independent verification that Claimant [REDACTED 2]'s relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 6]

Claimant [REDACTED 6] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was Claimant [REDACTED 6]'s cousin. There is no information to indicate that the Account Owner has other surviving heirs. The CRT further notes that Claimant [REDACTED 6] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 6], 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 Owner was well known to Claimant [REDACTED 6] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 6] is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account on or before

26 June 1947, and the auditors who carried out the ICEP Investigation presumed that the account was closed.

Given that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his 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 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. 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 Claimants and represented parties [REDACTED 4] and [REDACTED 5]. 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 her father, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his grandfather, and Claimant [REDACTED 6] has plausibly demonstrated that the Account Owner was his cousin, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 2] and represented parties [REDACTED 4] and [REDACTED 5], each have a better entitlement to the account than represented party [REDACTED 3], the Account Owner's son-in-law.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 26 June 1947 was SF 1,145.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 45.00, which reflects standardized bank fees charged to the account between 1945 and 1947. Consequently, the adjusted balance of the account at issue is SF 1,190.50. 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] is entitled to one-third of the Award amount, Claimant [REDACTED 2] and the parties who he represents are entitled to share one-third of the Award amount, and Claimant [REDACTED 6] is entitled to one-third of the Award amount.

With regard to the share of the Award granted to Claimant [REDACTED 2] and the parties he represents, according to Article 23(1)(c) 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 2] is representing his father, [REDACTED 3], his brother, [REDACTED 5], and his sister, [REDACTED 4], née [REDACTED]. Accordingly, Claimant [REDACTED 2] is entitled to one-ninth of the total Award amount, and his brother and his sister are also each entitled to one-ninth of the Award amount. As indicated above, represented party [REDACTED 3], as the son-in-law of the Account Owner, is not entitled to share in the Award.

Certification of the Award

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

Claims Resolution Tribunal
29 September 2009