

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]

to Claimant [REDACTED 3]

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

in re Account of Martin Roth

Claim Numbers: 222620/AZ, 401222/AZ,¹ 601372/AZ², 782049/AZ³

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) to the account of Leopold Ehrlich⁴ and the claims of Claimant [REDACTED 1] (“Claimant [REDACTED 1]”), Claimant [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”), and Claimant [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Efraim Davidovic⁵ and Martin Roth. This Award is to the published account of Martin Roth (the “Account Owner”) at the Kreuzlingen branch of the [REDACTED] (the “Bank”).

¹ Claimant [REDACTED 4] submitted one additional claim, which is registered under the Claim Number 206941. The CRT will treat this claim in a separate determination.

² Claimant [REDACTED 2] submitted a claim, numbered B-01410, on 28 October 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned claim number 601372.

³ Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0470067, 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 claim number 782049.

⁴ The CRT will treat the claim to this account in a separate determination.

⁵ The CRT did not locate an account belonging to Efraim (Franz, Francois) Davidovic (Davidovich, Davidovitz, Davidovitch, Jansen) in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

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 2], and Claimant [REDACTED 3]

Claimant [REDACTED 1] submitted a Claim Form and an Initial Questionnaire, Claimant [REDACTED 2] submitted an Initial Questionnaire and a claim to the Holocaust Claims Processing Office (“HCPO”), and Claimant [REDACTED 3] submitted an Initial Questionnaire identifying the Account Owner as their mother’s cousin, Martin Roth. In correspondence submitted to the CRT on 21 January 2005, Claimant [REDACTED 3] stated that her mother’s cousin was born between approximately 1905-1909 and was married to [REDACTED].⁶ Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3], who are siblings, indicated that Martin Roth, who was Jewish, resided in Marseilles, France and traveled frequently between Belgium (where Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] lived with their parents), France, and Switzerland on a regular basis. Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] further indicated that Martin Roth opened a Swiss bank account on behalf of their father, [REDACTED], and that Claimant [REDACTED 2], the eldest of the siblings, recalls seeing her father give money to Martin Roth to deposit in Switzerland. According Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3], they and their parents were in hiding separately in Belgium during the Second World War and their father died in Liege, Belgium in 1970. Finally, Claimant [REDACTED 3] stated that Martin Roth was a stockbroker in Marseilles after the Second World War, and died in Marseilles during the 1960s.

Claimant [REDACTED 1] indicated that he was born on 11 December 1941 in Liege. Claimant [REDACTED 2] indicated that she was born on 10 August 1929 in Velatin, Belgium and Claimant [REDACTED 3] indicated that she was born on 12 April 1933 in Velatin.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as her first husband, Martin Roth. In a telephone conversation with the CRT on 15 November 2006, Claimant [REDACTED 4] stated that her husband was born in 1915 in Munkacs, Czechoslovakia (now Mukachevo, the Ukraine). Claimant [REDACTED 4] further stated that her husband, who was Jewish, worked in textiles prior to the Second World War. Claimant [REDACTED 4] indicated that her husband, who fought with the Czech army during the Second

⁶ In correspondence with the CRT on 15 February 2005, Claimant [REDACTED 3] indicated that [REDACTED] is the surviving spouse of Martin Roth. The CRT notes that [REDACTED] did not file her own claim and is not represented in the claims of Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3]. The CRT further notes that the claims were primarily filed to claim an account belonging to their father, Efraim Davidovic. As noted above, the CRT did not locate an account belonging to Efraim (Franz, Francois) Davidovic (Davidovich, Davidovitz, Davidovitch, Jansen) in the Account History Database prepared pursuant to the ICEP Investigation.

World War, was captured by the Hungarians in approximately 1940 or 1941 and was subjected to forced labor. Claimant [REDACTED 4] further indicated that her husband was then transferred between several Nazi concentration camps until he was liberated at the end of the War in 1945. According to Claimant [REDACTED 4], she was also liberated from a concentration camp at the end of the War and she and Martin Roth were married shortly thereafter. Claimant [REDACTED 4] indicated that they had one child, [REDACTED],⁷ and that Martin Roth died in 1981.

In support of her claim, Claimant [REDACTED 4] submitted her own Certificate of Naturalization as a United States citizen, dated 25 April 1955, indicating that [REDACTED 4] was born in Czechoslovakia and that she was married.

Claimant [REDACTED 4] indicated that she was born on 23 August 1923 in Munkacs (Mukachevo). Claimant [REDACTED 4] is representing her sister, [REDACTED], née [REDACTED], who was born on 27 April 1926 in Munkacs.

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owner was Martin Roth. The Bank's records do not indicate the Account Owner's place of residence.

The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, which was transferred to a suspense account on 13 March 1986, when it had a balance of 13.10 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") indicated that there was no evidence of activity on this account after 1945.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

⁷ The CRT notes that [REDACTED] did not file his own claim and is not being represented by Claimant [REDACTED 4]; the CRT notes that Claimant [REDACTED 4]'s claim form was originally filed to claim an account belonging to Leopold Ehrlich, Claimant [REDACTED 4]'s father, and not for the account awarded here. The claim to the account of Leopold Ehrlich will be treated in a separate determination.

The Claimants' relatives' names match the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name.

The CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] each filed Initial Questionnaires with the Court in 1999, identifying a Swiss bank account owned by the Account Owner, 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], Claimant [REDACTED 2], and Claimant [REDACTED 3] have based their claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] had reason to believe that their 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], Claimant [REDACTED 2], and Claimant [REDACTED 3].

In support of her claim, Claimant [REDACTED 4] submitted documents, including her Certificate of Naturalization which indicates that her married surname was Roth, providing independent verification that her first husband, the person who is claimed to be the Account Owner had the same surname recorded in the Bank's records as the surname of the Account Owner.

The CRT notes that Claimant [REDACTED 4]'s relative and Claimant [REDACTED 1]'s, Claimant [REDACTED 2]', and Claimant [REDACTED 3]'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; 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 the other claim to this account was disconfirmed because the person claimed to be the Account Owner had disappeared during the First World War and was presumed dead, nearly two decades prior to the Relevant Period, which is defined by the Rules as the period from 1933 to 1945, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] stated that the Account Owner was Jewish and that he lived in Nazi-occupied France during the Second World War.

Claimant [REDACTED 4] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 4] stated that the Account Owner was Jewish and that he was in a several concentration camps during the Second World War.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was their mother's cousin. The CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] filed Initial Questionnaires with the Court in 1999, identifying their relationship to the Account Owner, 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 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] are related to the Account Owner, as they have asserted in their Claim Forms and Initial Questionnaires. Although Claimant [REDACTED 3] indicated that the Account Owner has a surviving spouse, as she is not represented in the claims of Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] and has not submitted a claim on her own behalf, her potential entitlement to the account is not treated in this Award.

Claimant [REDACTED 4] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was Claimant [REDACTED 4]'s husband. These documents include Claimant [REDACTED 4]'s Certificate of Naturalization which indicates that her married surname was Roth. The CRT further notes that the foregoing information provided by Claimant [REDACTED 4] is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 4] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 4] is related to the Account Owner, as she has asserted in her Claim Form. Although Claimant [REDACTED 4] indicated that the Account Owner also has a child, as he is not represented in her claim and has not submitted a claim on his own behalf, his potential entitlement to the account is not treated in this Award.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account on 13 March 1986, where it remains today.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have plausibly demonstrated that the Account Owner was their mother's cousin, and Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was her husband, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 4], the Account Owner's spouse, has a better entitlement to the account than represented party [REDACTED], the Account Owner's sister-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 13 March 1986 was SF 13.10. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 665.00, which reflects standardized bank fees charged to the account between 1945 and 1986. Consequently, the adjusted balance of the account at issue is SF 678.10. 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 group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] are together entitled to one-half of the Award amount and Claimant [REDACTED 4] is entitled to one-half of the Award amount.

With regard to the one-half portion of the Award to be shared by Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3], they indicated that the Account Owner was their mother's cousin. According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] are each entitled to one-third of this portion of the Award, or one-sixth of the total award amount.

As indicated above, represented party [REDACTED] is not entitled to share in 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
23 March 2007