

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Moritz Rothschild

Claim Number: 741544/KG¹

Award Amount: 362,125.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Moritz Rothschild (the “Account Owner”) at the Kreuzlingen branch of the [REDACTED] (the “Bank”).²

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 an Initial Questionnaire (“IQ”) identifying the Account Owner as her late father, Mauricio (Moritz) Rothschild, who was born on 31 March 1881. The Claimant indicated that her father resided at Obere Laube 19 in Konstanz, Germany, until May 1938, when he fled to Basel, Switzerland. According to the Claimant, her family remained in Basel until March 1941, at which time they emigrated to Montevideo, Uruguay. The Claimant submitted a letter dated 7 January 1961 from “Vita” *Lebensversicherungs-Aktiengesellschaft* to the Consulate General of the Federal Republic of Germany outlining insurance policies held by Moritz Rothschild, together with an official notification dated 6 June 1959 from the Freiburg State Office for Reparations (“*Landesamt für die Wiedergutmachung Freiburg*”), compensating

¹ [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered SPA 0014 139, 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 741544.

² 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”), Moritz Rothschild is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of four accounts.

Moritz Rothschild for an insurance policy he held with “*Vita*” *Lebensversicherungs-Aktiengesellschaft*. The Claimant indicated that she was born on 2 March 1920.

Information Available in the Bank’s Records

The Bank’s records consist of a customer card, a list of creditors, and a registry card for the account of Hermann Dreyfuss, who held an account for the benefit of Moritz Rothschild.

According to these records, the Account Owner was Moritz Rothschild, who resided at Obere Laube 19 in Konstanz, Germany. The Bank’s records indicate that the Account Owner held a custody account, numbered L2249, and a demand deposit account. The Bank’s records indicate that the custody account was closed on 14 April 1939, and that the demand deposit account was closed on 3 August 1939. The amount in the accounts on the dates of their closure is unknown. 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 Bank’s records indicate that Hermann Dreyfuss, who resided in Gernsbach, Germany, held a custody account for the benefit of the Moritz Rothschild. According to the registry card, this custody account contained 4% *United States of Mexico von 1904* bonds with a nominal value of 1,500.00 United States Dollars (“US \$”). The bonds were deposited in the account on two separate occasions: on 17 November 1924 a deposit of US \$1,000.00 was made, and on 14 August 1928 a deposit of US \$500.00 was made. The registry card indicates that the bonds were withdrawn on 11 October 1933. The card also indicates that the custody account contained a savings passbook, numbered 9214. The passbook was deposited in the custody account on 13 November 1926 and was withdrawn on 3 June 1935. The balance of the savings account is not recorded. The Bank’s records do not contain any information about the date of closure of the savings passbook or the custody account. There is no evidence in the Bank’s records that the Account Owner, the formal holder of the custody account, or their heirs closed the accounts and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s father’s name and country of residence match the published name and country of residence of the Account Owner. The Claimant also identified her father’s city of residence and street address, which match unpublished information about the Account Owner contained in the Bank’s records.

In support of her claim, the Claimant submitted documents, including a letter from “*Vita*” *Lebensversicherungs-Aktiengesellschaft* and an official notification dated 6 June 1959 from the Freiburg State Office for Reparations (“*Landesamt für die Wiedergutmachung Freiburg*”) regarding a claim made by Moritz Rothschild, 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 Claimant filed an IQ with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Moritz Rothschild, prior to the publication in February 2001 of the 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"). 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 relative, 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 relative 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.

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 the Account Owner was Jewish, and that he and his family fled Germany for Switzerland in 1938 before emigrating to Uruguay in 1941.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information demonstrating that the Account Owner was her father.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records, and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted copies of a letter dated 7 January 1961 from "*Vita*" *Lebensversicherungs-Aktiengesellschaft*, outlining insurance policies held by Moritz Rothschild, and an official notification dated 6 June 1959 from the Freiburg State Office for Reparations ("*Landesamt für die Wiedergutmachung Freiburg*") which awards Moritz Rothschild a sum of money as compensation for an insurance policy he held with "*Vita*" *Lebensversicherungs-Aktiengesellschaft*. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. 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 the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her IQ.

There is no information to indicate that the Account Owner has other surviving heirs.

The CRT also notes that while the Claimant did not identify Hermann Dreyfuss as her relative, the Bank's records clearly indicate that the Account Owner was the beneficial owner of the assets held under the name of Hermann Dreyfuss.

The Issue of Who Received the Proceeds

According to the Bank's records, the Account Owner held a custody account that was closed on 14 April 1939 and a demand deposit account that was closed on 3 August 1939. The Bank's records also indicate that Hermann Dreyfuss held a custody account for the benefit of the Account Owner. The securities contained in this custody account were withdrawn on 11 October 1933, and the savings passbook, which was deposited in that custody account, was withdrawn on 3 June 1935. The Bank's records do not indicate the dates of closure of the custody account or the savings passbook.

With respect to the custody account and the savings passbook held by Hermann Dreyfuss for the benefit of the Account Owner, given that the securities were withdrawn from the account in October 1933 and that the savings passbook was withdrawn in June 1935; that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until May 1938 and would not have been able to repatriate his assets to Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owner's assets to him nor any record of a date of closure of the accounts; that the Account Owner and his heirs would not have been able to obtain information about his assets 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs.

With respect to the Account Owner's custody account and the demand deposit account, the Bank's records indicate that the accounts were closed in April and August 1939, respectively, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the accounts were closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his 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, 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 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 the Account Owner was her father, and that relationship justifies 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 accounts.

Amount of the Award

In this case, the Award is for two custody accounts, one demand deposit account and one savings passbook.

The Bank's records do not show the values of custody account numbered L2249, the demand deposit account, or the savings passbook. 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 investigation carried out pursuant to the instructions of ICEP, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"), the average value of a demand deposit account was SF 2,140.00, and the average value of a savings account was SF 830.00. Thus, the total 1945 average value of custody account numbered L2249, the demand deposit account and the savings passbook is SF 15,970.00. 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 an amount of SF 199,625.00 for these accounts.

With regard to the custody account held by Hermann Dreyfuss for the benefit of the Account Owner, the Bank's records indicate that the nominal value of the bonds held in this account was US \$1,500.00 and that they were withdrawn on 11 October 1933. According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. It is presumed that the account owner, if able to decide freely, could have opted to hold the bond to maturity to avoid a capital loss. However, if a bond is in default, the award valuation shall be the market value on or as close as possible to the relevant date.

According to the New York Times of 11 October 1933 and 17 October 1933, the *4% United States of Mexico von 1904* bonds were in default. The bonds traded at 4.625 percent on 10 October 1933 and at 5.25 percent on 16 October 1933.³ The average of these two rates is 4.94 percent. Therefore, the market value of the bonds was US \$49.40, which was equivalent to SF

³ The CRT notes that the New York Stock Exchange was closed on 11 October 1933 for the Columbus Day holiday.

204.02.⁴ According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. In this case, the Bank's record consists only of a registry card. The registry card does not indicate whether the assets listed constituted the entire contents of the custody account or whether the account contained additional assets. Absent evidence to the contrary, and consistent with Article 29 of the Rules, the CRT presumes that there may have been additional assets in the custody account, and determines the account value to be SF 13,000.00. The current value of this amount 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 an amount of SF 162,500.00.

Consequently, the total award amount in this case is SF 362,125.00.

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
16 April 2010

⁴ In converting amounts in foreign currencies into Swiss Francs, the CRT uses official exchange rates.