

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]

in re Account of M. Rozenwasser

Claim Number: 701920/LV¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of M. Rozenwasser (the “Account Owner”) at the Zurich 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 Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as her paternal uncle, Morris Rosenwasser, who was born in Warsaw, Poland, sometime before 1893. In a telephone conversation with the CRT on 30 November 2004, the Claimant stated that her uncle and his first wife had a daughter named [REDACTED]. The Claimant further stated that her uncle’s first wife died of cancer before the Second World War and that her uncle remarried. The Claimant also stated that her uncle, who was Jewish, resided in Warsaw, where he was banker. The Claimant stated that her uncle, his second wife and daughter were deported and presumably perished in concentration camps. The Claimant explained that she went into hiding during the War and that her mother was imprisoned at the Trawniki slave labor camp for a year. The Claimant stated that her mother escaped from Trawniki before it was liquidated and joined the Claimant in hiding, with the aid of a German family residing in Poland. The Claimant stated that following the Warsaw uprising in 1944, the Claimant was sent to work in Haugsdorf, Austria, where she remained until 1945.

¹ Christine [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0038 134, 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 701920.

The Claimant submitted a letter dated 14 May 1979, written by a German attorney for submission to the German government for compensation for looted assets, which identifies [REDACTED] as the Claimant's father; and a notarized letter dated 12 October 1979, written by [REDACTED], the Claimant's cousin, which describes the Claimant's family's experience in the Warsaw Ghetto during the War.

The Claimant indicated that she was born on 17 February 1921 in Warsaw. The Claimant represents her cousin's son, [REDACTED 2], who was born on 27 August 1953 in Toronto, Canada.

Information Available in the Bank's Records

The Bank's records consist of an account statement and an extract from a suspense account ledger dated 4 March 1953. According to these records, the Account Owner was *Herr* ("Mr.") M. Rozenwasser who resided in Poland. The Bank's record shows that the Account Owner held one demand deposit account, numbered 18375. The Bank's records indicate that the account was considered dormant by the Bank and was transferred to a suspense account for dormant assets on 4 March 1953. The Bank's records further indicate that as of 6 December 1948, the balance of the account was 85.50 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

Identification of the Account Owner

The Claimant's uncle's first initial and last name and country of residence match the published first initial and last name and country of residence of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his first initial, last name and country of residence.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Morris Rosenwasser, and indicates that his date of birth was 1 January 1890 and place of birth was Warsaw, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Morris Rosenwasser, 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 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 the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. 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 the Account Owner was Jewish, and that he and his family were deported to concentration camps where they presumably perished. As noted above, a person named Morris Rosenwasser was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner. The CRT notes that the Claimant filed an Initial Questionnaire 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; and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a letter dated 14 May 1979, which was written by a German attorney for submission to the German government for compensation for looted assets, identifying [REDACTED] as the Claimant's father; and a notarized letter dated 12 October 1979, which was written by [REDACTED], the Claimant's cousin, describing the Claimant's family's experience in the Warsaw Ghetto during the War, which provide independent verification that the Claimant's family bore the same family name as the Account Owner and that they resided in Warsaw. 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 of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account on 4 March 1953. The auditors who carried out the ICEP Investigation presumed that the account was subsequently closed. Given that the Account Owner was deported to a concentration camp, where he perished; 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her uncle, 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 account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that, as of 6 December 1948, the balance of the account was SF 85.50. In accordance with Article 31(1) of the Rules, the amount is increased by an adjustment of SF 60.00, which reflects standardized bank fees charged to the account between 1945 and 1948. Consequently, the adjusted balance of the account at issue is SF 145.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 26,750.00.

Division of the Award

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, the Claimant is representing her cousin's son. Accordingly, the Claimant and her cousin's son are each entitled to one-half of the total award amount.

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
30 December 2004