

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], [REDACTED 2] and [REDACTED 3]

in re Accounts of Cecilia Ruberl-Schwarz

Claim Numbers: 500556/LK; 500557/LK; 500558/LK

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] ("Claimant [REDACTED 1]"), [REDACTED 2] ("Claimant [REDACTED 2]"), and [REDACTED 3], née [REDACTED] ("Claimant [REDACTED 3]") (together the "Claimants") to the accounts of Cecilia Ruberl-Schwarz (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 Claimants

The Claimants submitted three Claim Forms identifying the Account Owner as their maternal great-aunt, Cecilia Ruberl, née Schwarz, who was born on 29 March 1878 in Floridsdorf, Austria, and was married to [REDACTED] on 16 July 1905. According to the Claimants, their great-aunt lived in Switzerland after the First World War and later moved to Rome, Italy. The Claimants explained that during the Second World War and particularly during the Nazi occupation of Rome, their great-aunt, who was Jewish, went into hiding in the Vatican. The Claimants also explained that their great-aunt did not have children and that she moved in with the Claimants' parents in Rome in 1952, after the death of her sister (the Claimants' maternal grandmother), [REDACTED], née [REDACTED]. According to the Claimants, their great-aunt, who was very wealthy prior to the Second World War, lost her assets due to Nazi persecution. The Claimants added that their great-aunt died in Rome on 28 December 1969.

In support of their claims, the Claimants submitted a copy of their great-aunt's death certificate; her birth certificate indicating that she was born in Austria to [REDACTED] and [REDACTED], née [REDACTED]; her marriage certificate, indicating that her husband, [REDACTED], resided in Milan, Italy; a copy of an official document, dated 12 January 1948, stating that Cecilia Ruberl lost her Czechoslovakian citizenship; an official document dated 1949, demonstrating that Cecilia Ruberl held the status of a displaced

person in Italy; the identity card of their maternal grandmother, [REDACTED], indicating that she resided in Rome and that her parents were [REDACTED] and [REDACTED], née [REDACTED]; the marriage certificate of their mother, Greta (Grete) Maccagno, née Deutsch, indicating that she is the daughter of [REDACTED]; and an official family certificate from Rome indicating that Greta Maccagno, née Deutsch, was the mother of the Claimants.

Furthermore, the Claimants stated that their mother, Greta Maccagno, née Deutsch, was born on 19 May 1909 in Vienna, Austria, and was married to [REDACTED] on 31 August 1938 in Rome. The Claimants identified their mother as a housewife, who resided until 1937 at Fahrbackgasse 1, Vienna XXI, and then in Rome at Via de Angelico 70 and later at Via S. Anselmo 8. The Claimants further indicated that their mother died on 19 August 1984 in Rome. The Claimants stated that Claimant [REDACTED 1] was born on 15 May 1940 in Rome, Claimant [REDACTED 2] was born on 1 January 1944 in Rome, and Claimant [REDACTED 3] was born on 10 October 1945 in Rome.

Information Available in the Bank's Records

The Bank's records consist of account opening contracts, power of attorney forms, correspondence, a customer card, and printouts from the Bank's database. According to these records, the Account Owner was Cecilia Ruberl, née Schwarz, who was a widow as early as 1935, and the Power of Attorney Holder was *Frau* (Mrs.) Greta Maccagno, who resided at Via S. Anselmo 8 in Rome, Italy, and who previously went by the name *Fräulein* (Miss) Grete Deutsch, and resided at Fahrbackgasse 1 in Vienna, Austria.

The Bank's records indicate that the Account Owner used an address at Via Bianca di Savoia 17 in Milan, Italy, in June 1935, and Via Angelico 70 in Rome no later than September 1938 and still used that address in 1939. The Bank's records indicate that the Account Owner also used an address in Vienna at Fahrbackgasse 1 and that she indicated that it was her permanent address in Vienna since 12 October 1935 (*seit 12/10/35 meine ständige Adresse in Wien*). Furthermore, the Bank's records indicate that the Account Owner used an address in Coredo, in Val di Non, in the area of Trento, Italy, in 1940. The Bank's records also contain a letter from the Account Owner to the Bank, dated 14 October 1939, in which the Account Owner stated, *inter alia*, that she held Czechoslovakian citizenship, that she had been residing in Italy since 1905, and that she had never had a domicile in Germany or in the Protectorate of Bohemia and Moravia.

The Bank's records indicate that the Account Owner held a custody account, numbered 38896, and a demand deposit account in United States Dollars. According to the Bank's records, the custody account was opened on 23 June 1935 and closed on 29 November 1940. The Bank's records do not contain any information about the contents of the custody account. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders, or their heirs closed the accounts at issue and received the proceeds themselves.

The Bank's records indicate that the demand deposit account was opened on 14 July 1939 and was held under the Banks name but to the account and to the responsibility of the Account Owner at the *Guaranty Trust Co. of New York* in New York, New York, the United States. The Bank's records do not show the value of the demand deposit account nor do they indicate when the demand deposit account was closed. 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 the demand deposit 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 the demand deposit account after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders, or their heirs closed the accounts at issue and received the proceeds themselves.

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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The names and city and country of residence (Vienna, Austria) of their great-aunt and their mother match the published names and city and country of residence of the Account Owner and the names used by the Power of Attorney Holder. The Claimants identified their great-aunt's Czechoslovakian nationality and her city of residence in Rome, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimants also identified their mother's street addresses, which match the unpublished street addresses of the Account Owner and the Power of Attorney Holder contained in the Bank's records. The CRT notes that the information provided by the Claimants regarding their mother's marriage and emigration from Vienna to Rome is consistent with the marital status and cities of residence information in the Bank's records, which supports the plausibility of the identification. In support of their claim, the Claimants submitted documents, including their great-aunt's birth, marriage and death certificates and their mother's identity card, passport, marriage and death certificate. Finally, the Claimants submitted samples of their great-aunt's and mother's signatures, which match the signature samples contained in the Bank's records. The CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a target or victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and that she lived in Italy during the Second World War. The Claimants also stated that during the Second World War the Account Owner went into hiding in the Vatican and lost her assets due to Nazi persecution.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information and documents demonstrating that the Account Owner was their great-aunt. These documents include the Account Owner's birth certificate, indicating that the Account Owner's parents were [REDACTED] and [REDACTED], née [REDACTED], and the identity card of the Claimants' maternal grandmother, [REDACTED], indicating that she was the daughter of [REDACTED] and [REDACTED].¹ The Claimants also submitted the marriage certificate of their mother, Greta Maccagno, née Deutsch, indicating that she is the daughter of [REDACTED]. Finally, the Claimants submitted an official family certificate from Rome indicating that Greta Deutsch was the mother of the Claimants. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With respect to the custody account closed on 29 November 1940, the CRT has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of this account.

Regarding the demand deposit account, given that the Account Owner, who was Jewish, during the Second World War and particularly during the Nazi occupation of Rome, went into hiding in the Vatican; that Italy was occupied by the Nazis on 8 September 1943; that there is no record of a date of closure nor any record of payment of the Account Owner's demand deposit account to her; that there was no evidence of activity on the account after 1945; that the Account Owner and her 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 contained in Article 28 of 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.

¹ The CRT notes that the Account Owner's parents and the Claimants' great-grandparents names are spelled slightly differently on documents submitted by Claimants, but finds that this minor discrepancy does not adversely affect the Claimants' identification of the Account Owner.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their great-aunt, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that the Account Owner, the Power of Attorney Holder or their heirs did not receive the proceeds of the demand deposit account.

Amount of the Award

In this case, the Account Owner held one demand deposit account.² 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. 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 a total award amount of 26,750.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimants are the descendants of the Account Owner's niece. Accordingly, each of the Claimants is entitled to one-third of the total 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).

² With respect to the custody account closed on 29 November 1940, the CRT has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of this account.

Certification of the Award

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

Claims Resolution Tribunal
6 February 2004