

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 Account of Cecilia Ruberl

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

Award Amount: 162,500.00 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[REDACTED 2]"), and [REDACTED 3], née [REDACTED], ("Claimant [REDACTED 3]") (together the "Claimants") to the unpublished account of Greta Maccagno, née Deutsch. This award is to the published account of Cecilia Ruberl, née Schwarz, (the "Account Owner") over which Greta Maccagno, née Deutsch, held Power of Attorney (the "Power of Attorney Holder") at the Zurich branch of the [REDACTED] (the "Bank").¹

On 6 February 2004 the CRT awarded the Claimants a demand deposit account held by the Account Owner, but decided not to reach a decision on the Account Owner's custody account closed on 29 November 1940.² This award is to the outstanding custody account.

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.

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 (Vienna), Austria, and was married to [REDACTED] on 16 July 1905. According to the

¹ 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"), Cecilia Ruberl, née Schwarz, is indicated as having one account. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of two accounts.

² See *In re Account of Cecilia Ruberl* (approved on 6 February 2004).

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. The Claimants also explained that their great-aunt did not have children and that she moved in with the Claimant's parents in Rome in 1952, after the death of her sister (the Claimants' maternal grandmother), [REDACTED], née [REDACTED]. The Claimants stated that their great-aunt lost her assets due to Nazi persecution. The Claimants further stated that their great-aunt died in Rome on 28 December 1969.

The Claimants stated that their mother, Grete Maccagno, née Deutsch, the daughter of Cecilia Ruberl, née Schwarz's, sister [REDACTED], née [REDACTED], was born on 19 May 1909 in Vienna. The Claimants further stated that she lived with Cecilia Ruberl, née Schwarz, and her husband in Switzerland for several months when she was a young girl. According to the Claimants, Grete Maccagno was married to the Claimants' father, [REDACTED] on 31 August 1938 in Rome. The Claimants indicated that until 1937, their mother resided at Fahrbachgasse 1, Vienna, then in Rome at Via de Angelico 70 and later at Via S. Anselmo 8. The Claimants indicated that their mother died in Rome on 19 August 1984.

In support of their claims, the Claimants submitted a copy of their great-aunt's death certificate indicating that she died in Rome in 1969; her birth certificate indicating that she was born in Floridsdorf (Vienna), 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, née Schwarz, lost her Czechoslovakian citizenship; an official document dated 1949, demonstrating that Cecilia Ruberl, née Schwarz, held the status of a displaced person in Italy; the identity card of their maternal grandmother, [REDACTED], née [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], née [REDACTED]; and an official family certificate from Rome indicating that Greta Maccagno, née Deutsch, was the mother of the Claimants.

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 an account opening contract, an instruction form for custody accounts, 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 (Grete) Maccagno, née Deutsch, who resided at Via S. Anselmo 8 in Rome, Italy, and who previously resided at Fahrbachgasse 1 in Vienna, Austria.

The Bank's records indicate that the Account Owner used a care of address at Via Bianca di Savoia 17 in Milan, Italy, in June 1935, and that she resided at Via Angelico 70 in Rome no later than September 1938 and still used that address in 1939. The Bank's records show that the Account Owner also used an address in Vienna at Fahrbachgasse 1 and that she indicated that it was her permanent address in Vienna from 12 October 1935 (*seit 12/10/35 ständige Adresse in Wien*). Furthermore, the Bank's records indicate that the Account Owner used a temporary 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 was not domiciled 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 Holder, or their heirs closed the account 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 Bank's 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. As indicate above, this account was previously awarded to the Claimants.

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 name, city and country of residence of their great-aunt, Cecilia Ruberl, née Schwarz, match the published name, city and country of residence of the Account Owner. In addition, the name of the Claimant's mother, Greta Maccagno, née Deutsch, matches the published name of the Power of Attorney Holder.

The Claimants identified their great-aunt's Czechoslovakian nationality and Rome as her city of residence, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimants also identified their great-aunt and their mother's street

addresses, which match 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 move 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 claims, the Claimants submitted documents, including their great-aunt's birth certificate indicating that she was born in Floridsdorf (Vienna), and their mother's death certificate indicating that she was born in Vienna, but was a resident of Rome. Finally, the Claimants submitted their great-aunt and mother's signatures, which match the signatures contained in the Bank's records. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a 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 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]; the identity card of the Claimants' maternal grandmother, [REDACTED], indicating that she was the daughter of [REDACTED] and [REDACTED], née [REDACTED]. 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

As noted above, the CRT awarded the demand deposit account to the Claimants on 6 February 2004.

With regard to the custody account, given that the Account Owner went into hiding in Italy; that the Account Owner lost all her assets during the Second World War; that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about her accounts 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, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, or their 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. 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. Third, 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 custody account.

Amount of the Award

In this case, the Account Owner held one custody account. 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 the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000 Swiss Francs ("SF"). 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 SF 162,500.00.

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).

Certification of the Award

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

Claims Resolution Tribunal
24 December 2004