

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]
and [REDACTED 2]

in re Account of Clara Hoffner

Claim Numbers: 219505/AC; 500624/AC

Award Amount: 2,431,287.50 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Clara Hoffner (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

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal aunt, Clara Rudich, née Hoffner, who was born in approximately 1895 in Buzau, Romania, and was married to [REDACTED] in approximately 1925 in Romania. Claimant [REDACTED 1] indicated that the Hoffner family was originally from Austria, and that his aunt still had family members living in Austria around the time of the Second World War. Claimant [REDACTED 1] stated that his aunt’s parents’ names were [REDACTED] and [REDACTED], née [REDACTED] (also [REDACTED]), and that his aunt, who was Jewish, had at least nine siblings, including Claimant [REDACTED]’s father, [REDACTED]. Claimant [redacted 1] indicated that the last known address of his aunt was on Vasile Lascar in Bucharest, Romania, and he further indicated that she died in 1958 in Bucharest, without ever having had any children. Claimant [REDACTED 1] submitted a copy of a Romanian visa issued to him on 8 October 1964, valid for travel to Israel through 8 October 1965, which indicates that his name is [REDACTED 1], that he was born on 31 May 1914 in Bucharest, and that as of the date of issuance, he resided in Bucharest. Claimant [REDACTED] indicated that he was born on 31 May 1914 in Bucharest.

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his paternal aunt, Clara Hoffner, who was born in Buzau or Bucharest. Claimant [REDACTED 2] stated that his aunt's father's name was [REDACTED], and that his aunt, who was Jewish, had a brother named [REDACTED], who was Claimant [REDACTED]'s father. Claimant [REDACTED 2] indicated that he was born on 6 August 1924 in Braila, Romania.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to non-deposited assets in Buzau owned by the Hoffner family.

Information Available in the Bank's Records

The CRT notes that 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 provide the CRT with Bank's records about this account. Therefore, the CRT had to rely on these auditors' findings in adjudicating the account at issue.

According to the auditors who carried out the ICEP Investigation, the Account Owner was *Frau* (Mrs.) Clara Hoffner, who resided at Soseanu Jianu 92, in Bucharest, Romania, and held an account, the type of which is not indicated. These auditors indicated that the account was included in the 1945 freeze of assets held in Switzerland by citizens of Germany and other territories incorporated into the Third Reich (the "1945 Freeze"). The amount in the account was 194,488.00 Swiss Francs ("SF") as of 16 February 1945.

The auditors who carried out the ICEP Investigation do not indicate whether the account at issue was closed, or to whom it was paid. Given that these auditors did not find the account in the Bank's system of open accounts, they presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence that the Account Owner or her heirs closed the account 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s aunt's name and city and country of residence match the published name and city and country of residence of the Account Owner. In support of his claim, Claimant [REDACTED 1] submitted a copy of a 1964 Romanian visa issued to [REDACTED 1]

indicating that he resided in Bucharest. Additionally, Claimant [REDACTED 1] indicated that the Account Owner had relatives living in Austria around the time of the Second World War. The Account Owner's account was frozen pursuant to the 1945 Freeze, and Austrian accounts that were frozen were included in the database of accounts frozen in the 1945 Freeze, due to the fact that Austria was Nazi territory, which further strengthens claimant [REDACTED 1]'s identification of the Account Owner. Although the street address provided by Claimant [REDACTED 1] does not match the address provided in the Bank's records, Claimant [REDACTED 1] indicated that the address he provided was the last known address he had for the Account Owner, and that she may have lived elsewhere in Bucharest at the time that the account was opened.

Claimant [REDACTED 2]'s aunt's name and city and country of residence match the published name and city and country of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to non-deposited assets located in Buzau and owned by the Hoffner family, 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 2] has based his 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 his relative, but rather family relationships and assets that were known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] had reason to believe that his 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 2].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Clara Hoffner. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT also notes that the name Clara Hoffner appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution.

Furthermore, the CRT notes that although they are first cousins, the Claimants had no knowledge of each other, and that the information that they provided in their Claim forms regarding the Account Owner is consistent with the information provided in the Bank's record, and is also consistent with the Claim Form of the other Claimant. Specifically, the Claimants independently provided the same cities of residence and father's name for the Account Owner, which strengthens the credibility of their claims. Finally, the CRT notes that there are no other claims to this account. 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 Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and Claimant [REDACTED 1] further indicated that she was born around 1895 in Buzau and died in 1958 in

Bucharest. The CRT thus concludes that it is plausible that the Account Owner was living in Romania during the period of Romania's alliance with the Nazi's.

As noted above, a person named Clara Hoffner was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants' aunt.

The CRT further notes that Claimant [REDACTED 1] submitted a copy of a 1964 Romanian visa issued to him, which provides independent verification that Claimant [REDACTED 1] bears the same family name as the Account Owner and that he resided in Bucharest.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 2], prior to the publication in February 2001 of the ICEP List.

In addition, the CRT notes that although the Claimants are first cousins, they were unaware of this relationship, and that the information independently provided in each of their Claim Forms regarding Clara Hoffner's family is consistent, which strengthens the credibility of their claims. 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner lived in Romania under the Nazi regime; given that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; given that the Account Owner and her heirs resided in a Communist country in eastern Europe after the Second World War; given that the Account Owner and her heirs would not have been able to obtain information about her 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), (i), 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 her 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process (the “Rules”). Second, the Claimants have plausibly demonstrated that the Account Owner was their aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The auditors who carried out the ICEP Investigation indicated that the value of the account as of the freeze date of 16 February 1945 was SF 194,488.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 15.00, which reflects standardized bank fees charged to the account between 1 January 1945 and 16 February 1945. Consequently, the adjusted balance of the account at issue is SF 194,503.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 2,431,287.50.

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, Claimant [REDACTED 1] and Claimant [REDACTED 2] are both grandchildren of the Account Owner’s parents. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total award amount, and Claimant [REDACTED 2] is entitled to one-half 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
13 October 2004