

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] and [REDACTED 3]

and to Claimant [REDACTED 4]
also acting on behalf of [REDACTED 5]

in re Account of Ernst Roth

Claim Numbers: 723567/MBC; 788308/MBC¹

Award Amount: 10,603.75 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], formerly [REDACTED] (“Claimant [REDACTED 1]”) and of [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the published account of Ernst Roth (the “Account Owner”) at the Amriswil 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]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as his maternal grandmother’s second husband, [REDACTED], who was a lawyer in Krakow, Poland and who married Claimant’s grandmother, [REDACTED], née [REDACTED], after the Second World War. Claimant [REDACTED 1] stated that [REDACTED], who was Jewish, lost his entire family during the Holocaust and that in 1950 he and Claimant [REDACTED 1]’s grandmother emigrated to Israel. Claimant [REDACTED 1] stated that

¹ [REDACTED 1] and [REDACTED 4] did not submit a Claim Form to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQ”), numbered [REDACTED] and [REDACTED], respectively, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers [REDACTED] and [REDACTED] respectively.

[REDACTED] died on 28 September 1979 in Haifa, Israel and that his grandmother died on 19 January 1983, also in Haifa.

Claimant [REDACTED 1] submitted a certificate issued by the bar association in Krakow, confirming that [REDACTED] was a lawyer in Krakow, a certified copy of [REDACTED]'s will, naming Claimant [REDACTED 1]'s grandmother, [REDACTED], as his wife and heir, and a certified copy of his grandmother's will, identifying her husband as [REDACTED], and naming her grandchildren, the Claimant and his siblings, as beneficiaries, in equal shares, of a property and certain of her bank accounts..

Claimant [REDACTED 1] indicated that he was born on 31 July 1947 in Cyprus. Claimant [REDACTED 1] is representing his sister, [REDACTED 2], who was born on 1 October 1954 in Israel and his brother, [REDACTED 3], who was born on 29 January 1951 in Israel.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted an IQ identifying the Account Owner as his maternal grandfather, Ernest Roth, who was born on 2 April 1894 and was married to [REDACTED]. Claimant [REDACTED 4] indicated that his grandfather, who was Jewish, resided in Budapest, Hungary and owned a business for handmade leather goods in Hajdúdorog, Hungary. Claimant [REDACTED 4] further stated that, prior to the War, his grandfather resided in London, England for several years, and that, while there, he traveled to Switzerland to open a Swiss bank account. Claimant [REDACTED 4] stated that the Nazis confiscated his grandfather's business in 1944, and that his grandfather was forced to perform slave labor. In a telephone call with Claimant [REDACTED 4]' sister, [REDACTED 5], whom the Claimant represents, she indicated that she believes that, after the War, their grandfather left Hungary and traveled through Austria to arrive in Canada in approximately 1951. Claimant [REDACTED 4] stated that his grandfather died on 31 March 1993 in Montreal, Quebec, Canada. Claimant [REDACTED 4] submitted his mother's birth certificate and identity card indicating her maiden name was [REDACTED] and that her father was [REDACTED], and his sister's Hungarian identity card, indicating [REDACTED 5] was the daughter of [REDACTED] and [REDACTED].

Claimant [REDACTED 4] indicated that he was born on 20 May 1953 in Budapest. Claimant [REDACTED 4] is representing his sister, [REDACTED 5], who was born on 8 April 1952, also in Budapest.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Ernst Roth, whose domicile was unknown to the Bank. The Bank's record indicates that the Account Owner held a savings account, numbered [REDACTED].

The Bank's record indicates that the account was considered dormant by the Bank and was transferred to a suspense account on 21 February 1977, on which date the amount in the account was 353.30 Swiss Francs ("SF"). The account remains in the Bank's suspense account.

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

The name of Claimant [REDACTED 1]'s grandmother's second husband and the name of Claimant [REDACTED 4]' grandfather match the published name of the Account Owner.

The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name.

In support of their claims, Claimant [REDACTED 1] submitted a certificate confirming Ernst Roth was a lawyer in Krakow, Poland, and Claimant [REDACTED 4] submitted his mother's birth certificate and identity card indicating that her father was [REDACTED],² 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 Claimants each filed an IQ with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Ernest/Ernst Roth, 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 Claimants have based their claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 4]' relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account; the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 4] have each plausibly identified the Account Owner.

² The CRT notes that the name Ernő is the Hungarian equivalent of the name Ernst.

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. Claimant [REDACTED 1] stated that the Account Owner resided in Nazi-occupied Poland and that he lost his entire family during the Holocaust. Claimant [REDACTED 4] indicated that the Nazis confiscated the Account Owner's business in 1944.

The Claimant's 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 Claimant [REDACTED 1]'s grandmother's second husband and Claimant [REDACTED 4]' grandfather. Claimant [REDACTED 1] submitted a certified copy of his grandmother's will, in which she identified the Account Owner as her husband, and the Claimant and his siblings, whom he represents, as her grandchildren.

Claimant [REDACTED 4] submitted his mother's birth certificate and identity card indicating her maiden name was [REDACTED] and that her father was [REDACTED], and his sister's Hungarian identity card, indicating [REDACTED 5] was the daughter of [REDACTED] and [REDACTED].

The Issue of Who Received the Proceeds

The Bank's record indicates that the account remains in the Bank's suspense account.

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. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his grandmother's second husband, Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was his grandfather and those relationships justify an Award. Third, the CRT has determined 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 savings account. The Bank's record indicates that the value of the account as of 21 February 1977 was SF 353.30. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 495.00, which reflects standardized bank fees charged to the account between 1945 and 1977. Consequently, the adjusted balance of the account at issue is SF 848.30. 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 10,603.75.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 4] are each entitled to one-half of the total award amount.

With respect to Claimant [REDACTED 1]'s share of the total award amount, according to Article 23(2)(b) of the Rules, if none of the named beneficiaries has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. The CRT notes that Claimant [REDACTED 1] is representing his sister, [REDACTED 2], and his brother, [REDACTED 3]. Claimant [REDACTED 1] submitted the Account Owner's will, in which Claimant [REDACTED 1]'s grandmother was named as his heir, as well as Claimant [REDACTED 1]'s grandmother's will, in which Claimant [REDACTED 1] and his siblings were named as beneficiaries, in equal shares, of a property and certain of her bank accounts. In this case, Claimant [REDACTED 1] is representing his brother and sister. Accordingly, Claimant [REDACTED 1] and both his siblings are each entitled to one-sixth of the total award amount.

With respect to Claimant [REDACTED 4]' share of the total award amount, 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, Claimant [REDACTED 4] is representing his sister, [REDACTED 5]. Accordingly, Claimant [REDACTED 4] and his sister are each entitled to one-fourth 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
21 September 2005