

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2],

[REDACTED 3],

[REDACTED 4]

and [REDACTED 5]

in re Account of Hermann Rozenfeld

Claim Numbers: 000522/MW; 221518/MW; 217131/MW; 210418/MW; 210441/MW;
201102/MW

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 4] (“Claimant [REDACTED 4]”) to an account of Herman Rosenfeld, the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to an account of [REDACTED],¹ the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) to the published account of Hermann Rozenfeld, and the claim of [REDACTED 5] (“Claimant [REDACTED 5]”) (together the “Claimants”) to an account of [REDACTED].² This Award is to the published account of Hermann Rozenfeld (the “Account Owner”) at the Lausanne branch of the [REDACTED] (the “Bank”).

¹ The CRT did not locate an account belonging to Claimant [REDACTED 2]’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Claimant [REDACTED 2] should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 2] or upon information from other sources.

² The CRT did not locate an account belonging to Claimant [REDACTED 5]’s relative, Geza Rosenfeld, in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Claimant [REDACTED 5] should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by Claimant [REDACTED 5] or upon information from other sources.

All awards are published, but where claimants have 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

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his maternal uncle, Herman Rosenfeld, who was married to [REDACTED]. Claimant [REDACTED 2] indicated that his uncle, who was Jewish, was born in Adelsheim, Germany. Claimant [REDACTED 2] indicated that Herman Rosenfeld was the son of the Claimant's maternal grandparents, [REDACTED] and [REDACTED]. According to information provided by Claimant [REDACTED 2], his uncle fled Germany to the United States in approximately 1940. Claimant [REDACTED 2] further indicated that his uncle died in Washington, D.C., the United States. Claimant [REDACTED 2] submitted correspondence from his maternal grandparents indicating that his grandparents were deported to the Drancy concentration camp, and in which they refer to their son, Herman, and a detailed family tree. Claimant [REDACTED 2] indicated that he was born on 5 June 1953 in Urbana, Illinois, the United States.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as his great-uncle, Hermann Rozenfeld (Rosenfeld), who was born 1902 in Podejuch, Germany (today Poland). Claimant [REDACTED 3] indicated that his great-uncle, who was Jewish, resided in Hannover, Germany until 1938, after which time he was deported from Germany. Claimant [REDACTED 3] indicated that his great-uncle died in 1941. Claimant [REDACTED 3] submitted a copy of his passport. Claimant [REDACTED 3] indicated that he was born on 13 July 1949 in Fuerth, Germany.

Claimant [REDACTED 4] and Claimant [REDACTED 1]

Claimant [REDACTED 4] submitted two Claim Forms, and Claimant [REDACTED 1] submitted one Claim Form identifying the Account Owner as their father, Herman Rosenfeld, who was born 1888 in Török-Falu, Austro-Hungary, and was married to [REDACTED] in 1910 in the same town. Claimant [REDACTED 4] and Claimant [REDACTED 1] indicated that their father, who was Jewish, was an export merchant who sold dried fruits on his travels to Germany. Claimant [REDACTED 4] and Claimant [REDACTED 1] further indicated that their parents resided in Bucium, Hungary, and that their father died in 1940. Claimant [REDACTED 4] and Claimant [REDACTED 1] explained that the Nazis imprisoned their mother and their sisters in a work camp. In support of his claim, Claimant [REDACTED 4] submitted an extract of his birth certificate, indicating that his father was Herman Rosenfeld. Claimant [REDACTED 4] indicated that he was born on 30 May 1922 in Bucium, Hungary, and Claimant [REDACTED 1] indicated that he was born on 1 April 1925, also in Bucium.

Claimant [REDACTED 4] and Claimant [REDACTED 1] both previously submitted ATAG Ernst & Young claim forms in 1998, and Initial Questionnaires (“IQs”) with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Herman Rosenfeld.

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted a Claim Form identifying the Account Owner as her paternal grandfather, [REDACTED], who was married to [REDACTED]. Claimant [REDACTED 5] submitted her parents’ marriage certificate showing that her grandfather was [REDACTED]; and her birth certificate showing that her father was [REDACTED]. Claimant [REDACTED 5] indicated that her grandfather, who was Jewish, resided in Debrecen, Hungary. Claimant [REDACTED 5] did not provide details of her grandfather’s fate during the Second World War, but indicated that her father, [REDACTED], who was a tailor in Debrecen, was imprisoned in a forced labor camp in Hungary, where he perished in 1945. In support of her claim, the Claimant submitted her father’s marriage and death certificates, indicating that his name was [REDACTED], and that he was the son of [REDACTED]. Claimant [REDACTED 5] indicated that she was born on 15 June 1938 in Debrecen.

Information Available in the Bank’s Records

The Bank’s records consist of extracts from the Bank’s ledgers and an account statement. According to these records, the Account Owner was Hermann Rozenfeld. The Bank’s records do not contain information about the Account Owner’s domicile. The Bank’s records indicate that the Account Owner held a demand deposit account, which was opened in 1940 and which had a balance of 100.00 Swiss Francs (“SF”) as of 10 December 1952.

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”) reported that the account was transferred to a suspense account for dormant assets on or before 10 December 1954. These auditors did not find the 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

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 six claims of the Claimants in one proceeding.

Identification of the Account Owner

The name of Claimant [REDACTED 2]'s uncle, Claimant [REDACTED 3]'s great-uncle, Claimant [REDACTED 4]'s and Claimant [REDACTED 1]'s father, and Claimant [REDACTED 5]'s grandfather matches the published name of the Account Owner.³ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name. In support of their claims, Claimant [REDACTED 2] submitted various correspondence from his maternal grandparents, [REDACTED] and [REDACTED], in which they refer to their son Herman, and Claimant [REDACTED 4] submitted an extract of his birth certificate demonstrating that his father was Herman Rosenfeld. These documents provide 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 name Hermann Rozenfeld 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 (the "ICEP List").

The CRT notes that both Claimant [REDACTED 4] and Claimant [REDACTED 1] filed IQs with the Court in 1999, and ATAG Ernst & Young claim forms in 1998, asserting their entitlement to a Swiss bank account owned by Herman Rosenfeld, prior to the publication in February 2001 of the ICEP List. This indicates that Claimants [REDACTED 4] and [REDACTED 1] have based their present 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 Claimants [REDACTED 4] and [REDACTED 1] had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimants [REDACTED 4] and [REDACTED 1].

The CRT notes that Claimant [REDACTED 2]'s uncle, Claimant [REDACTED 3]'s great-uncle, Claimant [REDACTED 4] and Claimant [REDACTED 1]'s father, and Claimant [REDACTED 5]'s grandfather 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 records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records 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 the Claimants have plausibly identified the Account Owner.

³ The CRT notes that there are slight discrepancies between the spelling of the Account Owner's name in the Bank's records, and that of Claimant [REDACTED 2]'s relative, Claimant [REDACTED 1]'s and Claimant [REDACTED 4]'s relative, and Claimant [REDACTED 5]'s relative. However, the CRT further notes that the spelling of both the Account Owner's first and last name has several common variations, and concludes that these discrepancies do not materially affect Claimant [REDACTED 2]'s, Claimant [REDACTED 1]'s, Claimant [REDACTED 4]'s identification of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2] and Claimant [REDACTED 3] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] and Claimant [REDACTED 3] both stated that the Account Owner was Jewish. Claimant [REDACTED 2] indicated that the Account Owner fled Germany to the United States in approximately 1940. Claimant [REDACTED 3] stated that the Account Owner was deported from Germany in 1938 and died in 1941.

The CRT notes that, while according to information provided by Claimant [REDACTED 1] and Claimant [REDACTED 4], the Account Owner was not a Victim of Nazi Persecution, the Account Owner's wife and children were Victims of Nazi Persecution. Claimant [REDACTED 4] and Claimant [REDACTED 1] both stated that the Account Owner's wife and children were Jewish and that they were arrested by the Nazis and imprisoned in a labor camp.

The CRT notes that Claimant [REDACTED 5] did not provide information to indicate whether the Account Owner, who was Jewish, was a Victim of Nazi Persecution. However, Claimant [REDACTED 5] stated that the Account Owner's son was Jewish, and that he perished in a labor camp in 1945.

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 Claimant [REDACTED 2]'s uncle, Claimant [REDACTED 3]'s great-uncle, Claimant [REDACTED 4]'s and Claimant [REDACTED 1]'s father, and Claimant [REDACTED 5]'s grandfather. Claimant [REDACTED 4] submitted an extract of his birth certificate, indicating that his father was Herman Rosenfeld.

The CRT notes that Claimant [REDACTED 2] submitted correspondence from his maternal grandparents, in which they refer to their son Herman. The CRT notes that these are documents which most likely only a family member would possess. The CRT further notes that Claimant [REDACTED 4] and Claimant [REDACTED 1] filed IQs with the Court in 1999, and ATAG Ernst & Young claim forms in 1998, asserting their entitlement to a Swiss bank account owned by Herman Rosenfeld, prior to the publication in February 2001 of the ICEP List. Claimant [REDACTED 5] submitted her father's marriage and death certificates, indicating that his name was [REDACTED] and that he was the son of [REDACTED], which provide independent verification that Claimant [REDACTED 5]'s relatives bore the same family name as the Account Owner. 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 this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The CRT notes that according to the detailed family tree submitted by Claimant [REDACTED 2], that Claimant [REDACTED 2] has several other relatives who may be entitled to this

account. However, as of the date of this award, there have been no other claims made to his account.

The Issue of Who Received the Proceeds

Given that, according to Claimant [REDACTED 3], the Account Owner perished during the Second World War, and that according to Claimant [REDACTED 2], the Account Owner fled Germany; 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, (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 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 Claimant [REDACTED 4]'s and Claimant [REDACTED 1]'s father, Claimant [REDACTED 5]'s grandfather, Claimant [REDACTED 2]'s uncle, and Claimant [REDACTED 3]'s great-uncle, and those relationships justify 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

The Bank's records indicate that the value of the demand deposit account as of 10 December 1952 was SF 100.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 120.00, which reflects standardized bank fees charged to the account between 1945 and 1952. Consequently, the adjusted balance of the account at issue is SF 220.00. 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 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, Claimants [REDACTED 4] and [REDACTED 1], who are brothers, are each entitled to one-eighth of the award amount, and Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 5] are each entitled to one-fourth of the 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
30 December 2004