

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Fred Michael Ganz

in re Accounts of Arthur Ganz and Klothilde Ganz

Claim Number: 207827/SH

Award Amount: 94,800.00 Swiss Francs

This Certified Award is based upon the claim of Fred Michael Ganz (the “Claimant”) to the unpublished accounts of Arthur Ganz (“Account Owner Arthur Ganz”) and Klothilde Ganz (“Account Owner Klothilde Ganz”) (together the “Account Owners”) at the Basel and Zurich branches of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire identifying the Account Owners as his parents, Arthur Ganz, who was born on 11 March 1885 in Weissenau, Germany, and Clothilde Ganz, née Levi, who was born on October 5, 1894. The Claimant indicated that his father was a businessman who owned shoe stores at Klarastrasse 22 and on Schustergasse in Mainz, Germany, and who resided at Adam Carillon Strasse 60 in Mainz. The Claimant further indicated that he was the couple’s only child, and that because he attended school from 1936 until 1939 at the *Institute Dr. Asher* in Bex-les-Bains, Switzerland, his father opened an account at a Swiss bank in order to transfer the necessary funds for the Claimant’s tuition. According to the Claimant, in 1939 his parents, who were Jewish, fled Germany and entered France, where they were interned in a camp by the French authorities as enemies, because they had German passports. According to the Claimant, his parents managed to escape from the internment camp to Marseilles, France, and later to Nice, France. The Claimant indicated that in 1941 his parents fled France for the United States. According to the Claimant, his father died on 30 June 1958 in New York, New York, where his mother also died on 15 September 1969. In support of his claim, the Claimant submitted a family tree and an excerpt from a probate proceeding regarding Clothilde Ganz’s will naming him as her sole legatee. The Claimant also submitted a list published by the World Jewish Congress of account owners holding accounts at the New York branch of the Bank that were frozen by the United States government in June 1941. The Claimant indicated that he was born on 28 April 1922 in Mainz.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 as well as an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by his parents, Arthur and Clothilde Ganz of Mainz, Germany.

Information Available in the Bank Records

The bank records consist of account lists and printouts from the Bank's database. According to these records the Account Owners were Mr. Arthur Ganz and *Frau* (Mrs.) Klothilde Ganz, née Levi. According to the records, the Account Owners jointly held one account and Arthur Ganz solely owned another account. Both accounts were of unknown type. The account solely owned by Arthur Ganz identified his address as Klarastrasse 22/24 in Mainz, Germany. The records indicate that this account was frozen in the 1945 Swiss Freeze of German Assets. The amount in the account as of 16 February 1945 was 115.00 Swiss Francs. The bank records indicated that this account was unfrozen in 1948. The records indicate that the account jointly held by Arthur and Klothilde Ganz identified their domicile as Nice, France. According to the records, this account was numbered 66701 and was opened on or about 22 February 1939.

The bank records do not show when the accounts at issue were closed or to whom they were paid. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the bank records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His parents' names match the unpublished names of the Account Owners. The Claimant stated that his father had a business at Klarastrasse 22 in Mainz, Germany, and that his parents fled to Nice, France, which matches unpublished information about the Account Owners contained in the bank records. The CRT notes that the Claimant spells his mother's name "Clothilde," while the bank records spell it "Klothilde," but finds that the names are substantively identical.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled Germany for France in 1939.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by providing detailed biographical information about the Account Owners, demonstrating that he is their only son.

The Issue of Who Received the Proceeds

Given that at least one of the accounts survived World War Two, during which time it was frozen by United States action and unfrozen in 1948, and the application of Presumptions (h) 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 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 Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his parents, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held two accounts of unknown type. With regard to the jointly held 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 similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount for the Nice Account of 47,400.00 Swiss Francs.

With regard to the account held solely by Account Owner Arthur Ganz, the bank records indicate that the value of the account of unknown type as of 16 February 1945 was 155.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount for the Mainz Account of 47,400.00 Swiss Francs. Thus the total award amount is 94,800.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he 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
April 24, 2003