

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award upon Remand

to Claimant [REDACTED]

in re Account of Geza Gelleri

Claim Numbers: 752353/HS; 770949/HS
Appeal Number: 1124

Award Amount: 49,375.00 Swiss Francs

This Certified Award upon Remand is based on the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Geza Gelleri (the “Account Owner”) at 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.

Procedural History

On 23 April 2007, the Court approved a Denial decision to the Claimant for her claims to the account of Geza Gelleri (the “April 2007 Denial”). In that decision, the CRT determined that the Claimant had plausibly identified the Account Owner as her father and that the Claimant had made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The CRT additionally determined that the Account Owner held one account, the type of which is not indicated in the Bank’s records, which was opened in September 1938 and closed in April 1939. However, because the account was closed more than one year before the formal alliance of Germany and Hungary,¹ where the Account Owner resided, the CRT concluded that the Account Owner received the proceeds of the claimed account. Accordingly, the Claimant’s claims were denied.

The Claimant appealed the April 2007 Denial. In her claims and appeal, the Claimant pointed out that her father, Geza Gelleri, and her uncle, [REDACTED], operated a bank located at Wipplingerstrasse in Vienna, Austria, where her father and her uncle also resided until sometime after March 1938, when Austria was incorporated into the Reich (the “*Anschluss*”). The Claimant also indicated that a friend of hers had located a record of her father’s bank in the Austrian commercial register (*Handelsregister*).

¹ Hungary became a signatory to the Tripartite Treaty, formally entering the Axis alliance, on 20 November 1940.

In an Appeal decision approved by the Court on 14 December 2010 and further described below, Special Master Helen B. Junz determined that it was plausible that neither the Account Owner nor his heirs received the proceeds of his account at the Bank (the “Appeal Decision”). Special Master Junz reversed the April 2007 Denial and remanded the case to the CRT to award the Account Owner’s account to the Claimant.

The Appeal Decision

In the Appeal Decision, Special Master Junz noted that the 1937 Vienna telephone directory includes a listing for [REDACTED] of Wipplingerstrasse 21, Vienna, which confirms the Claimant’s assertion that her uncle resided in Vienna before the *Anschluss*. Based on the conclusion that the Account Owner’s brother and possibly the Account Owner resided in Vienna for some period of time after the *Anschluss*, Special Master Junz determined that it was plausible that neither the Account Owner nor his heirs received the proceeds of his account.

The Appeal Decision states in relevant part:

[G]iven that the Appellant’s uncle, and possibly also her father, had a residence in Vienna at the time of the *Anschluss*; given that they had a branch bank in Vienna that they were forced to close in 1938 sometime after the *Anschluss*; and given that the numbered bank account at [the Bank] was opened in September 1938, only to be closed on 1 April 1939, a mere seven months later, at which time it no longer contained any assets; it is plausible that the residence of the Gelleri brothers in Vienna and their bank in Vienna were used by the Nazi authorities to extort from them the contents of the numbered Swiss bank account of which the beneficial owner was Geza Gelleri of Budapest. The residence of the Gelleri brothers in Vienna and their owning a branch bank there would have cancelled any protective advantages they might have derived from their Hungarian citizenship and a Budapest domicile.²

Information Provided by the Claimant

As noted in the April 2007 Denial and the Appeal Decision, the Claimant indicated in relevant part that her father, Geza Gelleri, who was Jewish, owned the bank *G. Gelleri* which had branches in Budapest and Vienna. According to the information submitted by the Claimant, her father resided in Vienna until sometime after the *Anschluss* in 1938, when the Vienna branch of his bank was closed because of discriminatory laws in Austria, and he returned to Budapest.

Information Available in the Bank’s Records

As set forth in the April 2007 Denial, the Bank’s records consist of lists of opened and closed numbered accounts. These records indicate that the Account Owner was Geza Gelleri of

² Internal footnotes omitted.

Budapest, Hungary, who held a numbered account, numbered 62064, the type of which is not indicated. According to the Bank's records and the report of 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"), the account was opened on 13 September 1938 and closed on 1 April 1939. According to a notation in the Bank's records, at the time of its closure the account did not contain any assets.³ There is no evidence in the Bank's records that the Account Owner or his heirs received the proceeds of the account.

The CRT's Analysis

The Issue of Who Received the Proceeds

As mentioned above, according to the Vienna telephone directory consulted during Special Master Junz's consideration of the appeal, the Account Owner's brother resided in Vienna in 1937. As also noted above, the Claimant indicated that the Account Owner resided in Vienna until sometime after the *Anschluss* in 1938, when the Vienna branch of his bank was closed because of discriminatory laws. Further, by the time the Account Owner's account was closed on 1 April 1939, only seven months after it was opened, the account did not contain any assets. Given these circumstances, Special Master Junz concluded that it is plausible that the Nazi authorities in Austria extorted the contents of the Account Owner's account.

The CRT further notes that there is no record of the payment of the Account Owner's account to him. Additionally, the Account Owner and his heirs would not have been able to obtain any 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. Finally as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), in the absence of plausible evidence to the contrary, Presumptions (a), (h), and (j), apply to this case, further strengthening the conclusion that neither the Account Owner nor his heirs received the proceeds of the claimed account. 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, as set forth in the April 2007 Denial, the Claimant has plausibly identified the Account Owner and plausibly demonstrated that the Account Owner was a Victim of Nazi Persecution. Accordingly, the Claimant's claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, as set forth in the April 2007 Denial, the Claimant has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Third, Special

³ On a list of closed numbered accounts in the Bank's records a notation pertaining to the account of Geza Gelleri (the "Account Owner") reads "*nichts da*" ("nothing there").

Master Junz determined in the Appeal Decision that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

The CRT notes that, according to the Bank's records, the Account Owner's account held no assets when it was closed on 1 April 1939. However, the CRT additionally notes that it is implausible that an account owner would open an account and pay account fees without depositing any assets in the account. Further, there is no information in the Bank's records regarding the withdrawal of the assets in the account. Accordingly, the Account Owner's account shall be treated as an account of unknown value and unknown type.

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 ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs ("SF").⁴ 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 49,375.00.

Certification of the Award

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

Claims Resolution Tribunal
24 March 2011

⁴ The CRT notes that, in an Order dated 16 June 2010, the Court amended Article 29 of the Rules, which establishes value presumptions for accounts with unknown or low values. Full information regarding the methodology and procedure used to determine the revised Article 29 presumptive values is available at www.swissbankclaims.com. The CRT notes that the Order does not call for any adjustment for accounts of unknown type, such as the account described herein. Accordingly, no adjustment will be forthcoming.