

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also representing [REDACTED 2]

to Claimant [REDACTED 3]

to Claimant [REDACTED 4]

to Claimant [REDACTED 5]

and to Claimant [REDACTED 6]

in re Account of M. Gerber

Claim Numbers: 003762/AZ;¹ 206318/AZ; 708458/AZ; 739162/AZ; 785278/AZ²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Meir Gerber, the claim of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) to the account of Hersz Gerber,³ the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) to the accounts of Jozsefnè Gerber and Sandor Spitzer,⁴ the claim of [REDACTED 5] (“Claimant [REDACTED 5]”) to the account of Reuven Gerber,⁵ and the claim of [REDACTED 6], née [REDACTED], (“Claimant [REDACTED 6]”)

¹ Claimant [REDACTED 1] submitted eight additional claims, which are registered under the Claim Numbers 003723, 003724, 003738, 003758, 003759, 003760, 003761, and 003765. The CRT will treat these claims in separate determinations.

² Claimant [REDACTED 4], Claimant [REDACTED 5], and Claimant [REDACTED 6] did not submit a Claim Forms to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQs”), numbered GER-0006161, RUS-0056162, and RUS-0056162, 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 708458, 739162, and 785278, respectively.

³ The CRT did not locate an account belonging to Hersz Gerber 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”).

⁴ The CRT will treat the claims to these accounts in separate determinations.

⁵ The CRT did not locate an account belonging to Reuven Gerber in the Account History Database prepared pursuant to the ICEP Investigation.

(together the “Claimants”) to the accounts of Janos Lugos and Marta Lugos, née Herzog.⁶ This Award is to the unpublished account of M. Gerber (the “Account Owner”) at the Dietikon 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 a Claim Form identifying the Account Owner as her maternal uncle, Meir Gerber, who was born in approximately 1910 in Rzeszow (Lvov district), Poland, and was not married. Claimant [REDACTED 1] indicated that her uncle was Jewish and that he lived in Rzeszow. She further indicated that he was a wealthy man who owned large areas of forest below the Carpathian Mountains in Poland, as well as several sawmills and a furniture factory. According to Claimant [REDACTED 1], her uncle placed all of his income and profits in a Swiss bank account and that he likely made deposits to that account between 1938 and 1939.

Claimant [REDACTED 1] indicated that she is the only member of her family to survive the Holocaust. She stated that she searched for her relatives, including her uncle, after the Second World War but was unable to locate any of them. Her uncle is presumed to have perished in a concentration camp along with his other family members.

Claimant [REDACTED 1] indicated that she was born on 12 November 1923 in Dublany-Krandzberg (Lvov district), Poland (now part of the Ukraine). Claimant [REDACTED 1] is representing her daughter, [REDACTED 2], née [REDACTED], who was born on 19 May 1953 in Wroclaw, Poland. Claimant [REDACTED 1] previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her uncle, Meir Gerber.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her mother, Miriam Ester Gerber, née Grosberg, who was married to [REDACTED]. Claimant [REDACTED 3] indicated that her parents, who were Jewish, had two children, herself and her brother [REDACTED], both born in Stopnica, Poland. Claimant [REDACTED 3] further indicated that before the Second World War her family lived in Lodz, Poland, where her father owned a leather supply business, and that her father regularly traveled to Switzerland to deposit assets in a Swiss bank account.

⁶ The CRT will treat the claims to these accounts in separate determinations.

Claimant [REDACTED 3] stated that the Nazis confiscated her father's business in December 1939, and in 1941, her family was forced to live in the Lodz ghetto. She further stated that her parents were later deported to Auschwitz, where they perished, and that she is the only member of her family to survive the Holocaust.

Claimant [REDACTED 3] indicated that she was born on 18 November 1925 in Stopnica, Poland. Claimant [REDACTED 3] previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by her father, Hersz Gerber.⁷

Claimant [REDACTED 4]

Claimant Miklós Gerber submitted an Initial Questionnaire identifying himself as the Account Owner, Miklós Gerber, who was born on 9 December 1939 in Kistelek, Hungary. Claimant [REDACTED 4] indicated that his family was Jewish, that he and his parents lived in Kistelek, and that his maternal grandparents lived in Szeged, approximately 25 kilometers away. Claimant [REDACTED 4] further indicated that the Nazis looted his parents' and grandparents' assets in 1944 and that the family was interned in the Szeged ghetto. According to [REDACTED 4], he and his family were later deported to the Strasshof concentration camp in Austria, where they performed slave labor until the camp's liberation in 1945.

Claimant [REDACTED 5]

Claimant Moshe Gerber submitted an Initial Questionnaire identifying himself as the Account Owner, Moshe Gerber, who was born on 10 October 1922 in Birzai, Lithuania. Claimant [REDACTED 5] indicated that he is Jewish, that his family home was burned by the Nazis, and that he and his family were interned in the ghetto in Birzai. Claimant [REDACTED 5] further indicated that his father, [REDACTED], was taken to the forest and killed in August 1941, and that many other family members perished in the ghetto.

Claimant [REDACTED 6]

Claimant Magdolna Gerber submitted an Initial Questionnaire identifying herself as the Account Owner, Magdolna Gerber, née Lugos, who was born on 1 November 1910 in Budapest, Hungary. Claimant [REDACTED 6] indicated that she is Jewish, that her parents were [REDACTED] and [REDACTED], née [REDACTED], and that she was married before the Second World War. She further indicated that her father was a banker who deposited his money in Swiss banks. Claimant [REDACTED 6] stated that she was a housewife in Budapest and that she was forced to wear a yellow star beginning in 1943. Claimant [REDACTED 6] further stated that her family's property was looted by German troops in 1944 and that she went into hiding in various places in Budapest until the end of the Second World War.

⁷ As indicated, the CRT did not locate an account belonging to Hersz Gerber in the Account History Database prepared pursuant to the ICEP Investigation.

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 M. Gerber. The Bank's record does not indicate the Account Owner's place of residence. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated. This account was transferred into a suspense account for dormant assets on 3 June 1980. The balance of the account on the date of the transfer was 83.20 Swiss Francs ("SF"). 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") indicated that there was no evidence of activity on this account after 1945. The account remains suspended.

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 five claims of the Claimants in one proceeding.

Identification of the Account Owner

Each Claimant's or Claimant's relative's initial and surname matches the unpublished initial and surname 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 or her surname and first initial.

The CRT notes that the Claimants all filed Initial Questionnaires with the Court in 1999, and that Claimant [REDACTED 1] also filed an ATAG Ernst & Young claim form in 1998, asserting their entitlement to a Swiss bank account owned by their relatives, 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 the Claimants 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 relatives, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimant 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 Claimant.

The CRT notes that Claimant [REDACTED 1]' uncle, Claimant [REDACTED 3]'s mother, Claimant [REDACTED 4], Claimant [REDACTED 5], and Claimant [REDACTED 6] are not the same person. However, given that the Claimants have identified all unpublished information about the Account Owner that is 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 the other claims to this account were disconfirmed because the persons claimed to be the Account Owner would not have had the Account Owner's surname during the relevant period, the CRT finds that each Claimant has plausibly identified the Account Owner.⁸

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, living in Nazi-occupied Poland, and that it is presumed that he perished in the Holocaust.

Claimant [REDACTED 3] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish, that her husband's business was confiscated by the Nazis in December 1939, that she was interned in the Lodz ghetto, and that she was deported to Auschwitz, where she perished.

Claimant [REDACTED 4] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 4] stated that he is Jewish, and that he was interned in the Szeged ghetto and in the Strasshof concentration camp before being liberated in 1945.

Claimant [REDACTED 5] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 5] stated that he is Jewish, that his family home was burned by the Nazis, and that he was interned in the Birzai ghetto, where many of his family members perished.

Claimant [REDACTED 6] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 6] stated that she is Jewish, that she lived in Nazi-occupied Hungary, and that she survived the Holocaust by hiding in various places in Budapest until the end of the Second World War.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was her uncle. Claimant [REDACTED 3] has also plausibly demonstrated that the Account Owner was her mother. Claimants Miklós Gerber, Moshe Gerber, and Magdolna Gerber have each plausibly demonstrated that he or she is the Account Owner.

The CRT further notes that each Claimant identified unpublished information about the Account Owner as contained in the Bank's record, and that the information each of them submitted is of the type that the Account Owner or family members would possess and indicates that the Account Owner was well known to each Claimant; all of this information supports the plausibility that each Claimant is the Account Owner or is related to the Account Owner, as

⁸ The CRT notes that it is plausible that Claimant Miklós Gerber's parents, or another relative, opened the account in his name after his birth in 1939.

asserted in his or her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred into a suspense account on 3 June 1980 and that it remains suspended.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her uncle and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her mother and those relationships justify an Award; Claimants Miklós Gerber, Moshe Gerber, and Magdolna Gerber have each plausibly demonstrated that he or she is the Account Owner. Third, the CRT has determined that neither the Account Owner nor his or her heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 1], as the Account Owner's niece, has a better entitlement to the account than represented party [REDACTED 2], the Account Owner's grandniece.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's record indicates that the balance of the account as of 3 June 1980 was SF 83.20. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 545.00, which reflects standardized bank fees charged to the account between 1945 and 1980. Consequently, the adjusted balance of the account at issue is SF 628.20. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 49,375.00.

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, each Claimant is entitled to one-fifth of the Award amount.

With respect to the portion of the Award designated to Claimant [REDACTED 1], Claimant [REDACTED 1] is representing her daughter in these proceedings. 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. Accordingly, Claimant [REDACTED 1] is entitled to her entire one-fifth share.

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
27 February 2007