

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]

in re Accounts of Karl Gerö

Claim Numbers: 753371/BW;¹ 779935/BW; 782745/BW^{2,3}

Award Amount: 64,975.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the unpublished accounts of Carol (Karl) Gerö.⁴ This award is to the unpublished accounts of Karl Gerö (the “Account Owner”) at the [REDACTED] (the “Bank”).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.

¹ Claimant [REDACTED 1] (the “Claimant”) did not submit a CRT Claim Form. However, in 1998 he submitted an ATAG Ernst & Young claim form (“ATAG Form”) numbered C-NYC-L-70-916-045-246 to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 753371.

² In 1999, the Claimant also submitted two Initial Questionnaires (“IQs”), numbered ENG-0389154 and ENG-0500167, 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 IQs 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). These IQs were forwarded to the CRT and have been assigned claim numbers 779935 and 782745.

³ The Claimant submitted one additional claim, which is registered under the Claim Number 782821. In a decision released 4 September 2007, the CRT treated the Claimant’s claim to the accounts of Sara Tereze Gero and Irene Friedmann.

⁴ The CRT did not locate an account belonging to Karl Gerö in the Account History Database prepared pursuant to the investigation of ICEP (“ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules.

Information Provided by the Claimant

The Claimant submitted an ATAG Ernst & Young claim form (“ATAG Form”) and Initial Questionnaires (“IQs”) identifying the Account Owner as his grandfather, Karl (Carol) Gerö, who was born in 1885 in Cuci, Romania. The Claimant indicated that his grandfather, who was Jewish, married [REDACTED], née [REDACTED] in 1925, at which time the Claimant's grandmother, a widow, had a daughter from a previous marriage, the Claimant's mother, [REDACTED 2], née [REDACTED], who was born in Agris, Romania on 7 August 1919.

According to the Claimant, after the rise of the Nazis in Europe, his grandfather, who was a jewelry dealer and international businessman dealing in lumber and poultry, made frequent trips to Switzerland to deposit money, gold, and jewelry in accounts and safe deposit boxes, under the pretext of importing watches to Romania.

The Claimant indicated that in March 1943, his grandfather was deported from the family home at Kusavoda St. 5 (also known as Clemenceau St.) in Cluj, Romania to a ghetto, and later to several concentration camps, where he was forced to labor without pay, before eventually perishing at Mauthausen concentration camp on 31 December 1944.

The Claimant further indicated that his mother, [REDACTED 2], married [REDACTED] in 1938, however her husband was deported and perished in a concentration camp, while she was forced to work as a slave laborer at Kleinshenau-Zitau from October 1943 to May 1945, ultimately surviving the Holocaust. The Claimant indicated that after the Second World War, [REDACTED 2] met [REDACTED], who was a widower with an infant son, the Claimant, who was born on 16 May 1947, and the couple later married.

According to the Claimant, his grandmother hired a Swiss attorney in 1948 to investigate the possibility that assets belonging to Karl Gerö remained in a bank in Switzerland. In 1950, the attorney reported that after unsuccessful inquiries at the large banks in Zurich, he was able to discover assets denominated in British Pound Sterling and United States Dollars, with a combined value of 55,850.75 Swiss Francs (“SF”) at the Le Locle, Switzerland branch of the Bank. The attorney secured the release of these assets, minus a commission promised to him by the Claimant's grandmother, and the assets were transferred to an account at the *Anglo-Palestine Bank* in Israel. The Claimant stated that his mother, convinced that his grandfather held other assets, especially a safe deposit box as well as an account denominated in Swiss Francs, visited Zurich in 1956 to make inquiries, however was unable to locate any other assets given the time constraints and expense required to visit each bank individually. Subsequently, additional requests were made by the Claimant to various official Swiss governmental and private banking entities between 1974 and 1997, including an application filed in 1996 with the Contact Office for the Search of Dormant Accounts Administered by Swiss Banks (the “Swiss Bank Contact Office”), all of which also proved unsuccessful.

The Claimant submitted copies of the following documents in support of his claim:

- (1) A notarized statement of [REDACTED 2], dated 20 March 1996, which indicates that she was born [REDACTED 2] on August 7, 1919 in Agris, Romania; that her birth father

died in 1920 and her mother [REDACTED], née [REDACTED], married Carol (Karl) Gero in 1925; that Carol Gero was born in 1885 in Cuci, Romania and that the family lived together in Cluj, Romania at No. 5 Kusavoda St.; that Carol Gero was an international businessman in lumber and poultry and a jewelry dealer who had financial connections in Switzerland; that Carol Gero perished in the Mauthausen concentration camp on 31 December 1944; that [REDACTED 2] married [REDACTED] in 1938, however he did not survive the Holocaust and she subsequently met [REDACTED] in 1947; that [REDACTED] had an infant son named [REDACTED 1], who was born on 16 May 1947, and that she cared for him as his mother; that her mother died on 2 January 1955; that her husband died on 8 October 1980; that her mother succeeded in receiving funds from one of her father's accounts in Switzerland; and that she traveled to Switzerland in 1956 seeking additional information, but was unable to make the time-consuming and expensive inquiries in accordance with Swiss banking law requirements at that time.

- (2) a copy of a death certificate, dated 21 September 1961, which indicates that the death of Karl Gerö, a resident of Cluj, Romania at No. 5 Kusavoda St., who died on 31 December 1944 at Mauthausen, was registered with the Cluj authorities on 26 November 1946;
- (3) a copy of an inheritance certificate from the Cluj district court dated 3 September 1947, which indicates that the sole heir of Karl Gerö, residing at Kusavoda St. 5 of Cluj, and who perished at the Mauthausen concentration camp on 31 December 1944, was his wife, [REDACTED], née [REDACTED];
- (4) a copy of the will of [REDACTED], née [REDACTED], dated 20 January 1949, which indicates that her sole heir was her daughter, [REDACTED 2], née [REDACTED], who lived at Kusavoda St. 5 in Cluj;
- (5) a copy of an Israeli identity card, which indicates that [REDACTED 2] was born on 7 August 1919 in Romania, and that her mother's name was [REDACTED];
- (6) a copy of a health document issued by the Israeli immigration office in Bucharest, Romania on 23 March 1950 to [REDACTED 2], her son [REDACTED 1], and her mother in preparation for their immigration to Israel;
- (7) a copy of the Claimant's passport, which indicates that he was born in Romania on 16 May 1947;
- (8) a copy of a letter from an attorney in Basel, Switzerland, dated 19 September 1956, that recounts events occurring in 1950, when he was able to recover assets denominated in British Pound Sterling and United States Dollars held by Karl Gerö in accounts with the Bank in Le Locle, Switzerland; that the assets in these accounts amounted to SF 55,850.75; and that the remaining amount, less a 15% commission promised to him by [REDACTED], was transferred to her accordingly;
- (9) a copy of a ledger sheet concerning an account denominated in British Pound Sterling (described in detail below) held by Karl Gerö at the Le Locle branch of the Bank, which indicates that the amount of £2,497.00 was transferred from the bank to an account at the *Anglo-Palestine Bank* in 1950;
- (10) voluminous correspondence from the Claimant to various official Swiss government and private banking entities between 1974 and 1997 concerning the search for assets of Karl Gerö remaining in banks in Switzerland; and
- (11) a copy of an application filed by the Claimant in 1996 to the Swiss Bank Contact Office, indicating that he requested a search for accounts held by Carol (Karl) Gero, and that he

paid a search fee of SF 300.00 for this purpose, of which SF 200.00 was returned upon an unsuccessful search.

The Claimant indicated that he was born on 16 May 1947 in Romania. The Claimant is representing his mother, [REDACTED 2], who was born in Agris, Romania on 7 August 1919.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Karl Gerö during their investigation of the Bank. The documents evidencing the account were obtained by the Claimant and were forwarded to the CRT.

Information Available in Records Submitted by the Claimant

The records submitted by the Claimant consist of ledger sheets concerning a demand deposit account denominated in British Pound Sterling at the Le Locle branch of the Bank. According to these records, the Account Owner was Karl Gerö who resided in Cluj, Romania. These records indicate both debit and credit transactions that occurred on the account in the period between 8 February 1938 and 12 September 1950.⁵ Of particular note are the following credits to the account, which indicate amounts that were deposited into the account from another account denominated in Swiss Francs:

- 8 and 21 February 1938, £1,500.-- and £1,000.--, respectively were paid into the account from a Swiss Franc-denominated account (*BONIF CPTÉ FRS. SUISSES.*);
- 20 February 1939, £917.-- was transferred into the account from a Swiss Franc account (*TRANSFERT CPTÉ FRS. SUISSES.*);
- 30 March 1939, £813.13.09 was transferred into the account from a Swiss Franc account (*TRANSFERT CPTÉ FRS. SUISSES.*); and £395.-- was assigned to the account from a Swiss Franc account (*CESSION FRS. SUISSES.*); and
- 25 July 1939, £700.-- was deposited into the account from a Swiss Franc account (*CPTÉ FRS. SUISSES.*).

Further, these records indicate a transfer of £100.00.-- to the *Anglo Palestine* Bank on 23 June 1939, and that a remittance (*REMISE*) of £0.09.10 into the account on 19 August 1939 was the last movement of the account besides the deduction of maintenance fees, which were deducted quarterly until the end of 1943, semi-annually until the end of 1947, and then annually until the end of 1949. These records further indicate that in 1950, this account contained a balance of £2,496.19.12; that on 12 May and 28 July 1950, the sums of £1,527.10.04 and £862.14.00 respectively were transferred from the account to the *Anglo Palestine Bank*; that a fee of £12.10.-

⁵ The CRT notes that these sums are expressed in pre-decimalization British Pound Sterling.

- was charged to the account on 28 July 1950; and that on 12 September 1950, the remaining account balance of £94.05.08 was transferred to the Zurich branch of the Bank.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account relationship (“Voluntary Assistance”). The Bank provided the CRT with additional documents regarding the Account Owner’s assets. These documents consist of correspondence from a Swiss attorney in 1948 regarding a request for information concerning assets of Karoly Gerö located at the Bank; internal bank memoranda documenting the visit of *Frau* (Mrs.) [REDACTED 2] to the Bank in 1956; and a letter from a Swiss attorney in 1963 on behalf of his clients (who appear to be distant family relatives of the Account Owner), inquiring about remaining assets of Karol Gerö at the Bank, as well as an internal bank memorandum regarding the search for accounts pursuant to this request in 1963.

The Bank’s records contain a copy of a letter dated 16 April 1948 from a Swiss attorney hired by [REDACTED], the widow of Karoly Gerö, in 1948, which indicates the attorney requested that the Bank search for any accounts of the Account Owner at the Zurich-area branches. Additionally, the Bank’s records contain the Bank’s reply on 22 April 1948, simply directing the attorney’s attention to an enclosed pamphlet (*Zirkularschreiben*).

The Bank’s records also contain internal memoranda dated 15 and 16 August 1956, which indicate that Mrs. [REDACTED 2] visited the Bank on 15 August 1956 seeking information on any deposited assets remaining at the Bank in the name of Karoly Gerö (Karl Gero) from Cluj. The internal memorandum indicates that the Bank considered this to be the same case as that of the 16 April 1948 letter from the Swiss attorney and references the Bank’s 22 April 1948 reply; that the documents Mrs. [REDACTED 2] presented were not sufficient to support further inquiry; that the Bank declined to provide her any information and gave her a pamphlet titled “Supporting Documents for Estate Representation” (*Nachweise für Erbenvertretung*); and indicates that Mrs. [REDACTED 2] was expected to return in a week with the necessary documents.

Further, the Bank’s records contain a copy of a letter dated 23 October 1963, from a Swiss attorney on behalf of his clients, searching for accounts belonging to a person named Karol Gerö. According to this letter, the person about which information was sought was named Karol Gerö, who was born circa 1887 in Detrehem bei Klausenburg (Cluj), Romania and was the son of [REDACTED] and [REDACTED], née [REDACTED], as well as a landowner and businessman who lived at Postakerstrasse 6 in Klausenburg until his deportation in May 1944, after which he perished in a concentration camp. The letter further indicates that it is possible that Karol Gerö was married, however it was assumed by the Swiss attorney that Karol Gerö’s wife was also deceased. From the information available in this letter, the clients were the children of Karol Gerö’s maternal aunt [REDACTED], née [REDACTED], who were presently residing in Haifa and Tel Aviv, Israel. This letter further indicates that the heirs were aware of four transfers of money in Palestinian Pounds (“Pal. £”) occurring in 1939 and originating from a number of accounts at a number of banks in Switzerland, including one transfer of Pal. £ 100.--.-- on 30 June 1939 from the Le Locle branch of Bank, by the order of Casol Sciso, which the heirs assumed was an assumed name.

Pursuant to the information contained in this request, the Bank circulated an internal memorandum, the results of which indicate that there were no account dossiers for the year 1939 under the names Karol Gerö or Casol Scio in the Bank's records, but that Karol Gerö had owned a safe deposit box in 1941, which by 1963 was already closed. The Bank's records do not show when that safe deposit box was closed, nor do they indicate the value of this account. Further, the Bank's records do not indicate whether the results of this inquiry were revealed to the Swiss attorney.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name and city and country of residence match the unpublished name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's wife's name; the fact that she engaged an attorney in 1948 to search for assets of the Account Owner; as well as the Account Owner's daughter's name, and the fact that she visited the Bank in Zurich in 1956, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including copies of a death certificate and an inheritance certificate, which both indicate that Karl Gerö resided in Cluj at No. 5 Kusavoda St., and provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the records submitted by the Claimant and in the Bank's records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by the Claimant's mother in 1956, which indicates that Karl (Yekutiel) Gero was born in 1885 in Cluj, Romania; that his father's name was [REDACTED]; that he was a merchant in Cluj who was married, and who died at Mauthausen, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Further, the CRT notes that the information provided by the Claimant regarding the Account Owner is almost identical to the information submitted by apparently distant family relatives of the Claimant to the Bank in 1963 as part of an inquiry regarding any remaining assets of a person with a similar name to that of the Account Owner: both men were named Karol (Karl) Gerö; the father of both men was named [REDACTED] ([REDACTED]);⁶ both men were born in approximately the same year (1885 versus circa 1887); both men resided in Cluj; both men were associated with an account held at the Le Locle branch of the Bank; the ledger sheets submitted by the Claimant indicate the sum of £100.00.-- was transferred from the Account Owner's

⁶ The CRT notes that the information regarding the name of the Account Owner's father was obtained from the Claimant's mother's 1956 submission to the Yad Vashem memorial of Israel.

account at the Bank to the *Anglo-Palestine Bank* on 23 June 1939 and the 1963 inquiry indicated that the sum of Pal. £100.00.-- was received at the *Anglo-Palestine Bank* in Palestine from the Bank on 30 June 1939; and both men perished in a concentration camp. Given the similarities of the background information presented by these separate parties regarding the Account Owner, the CRT concludes that the information contained in the Bank's records concerning a person named Karl Gerö as evidenced in the 1963 inquiry submitted by apparently distant relatives of the Claimant, relates to the same person who is the Account Owner as identified by the Claimant.

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and that he was forced to work as a slave laborer, and that he subsequently perished in Mauthausen concentration camp. The Claimant also submitted a copy of an inheritance document from the Cluj local court, which indicates that the Account Owner perished on 31 December 1944 in the Mauthausen concentration camp. As noted above, a person named Karl Gero was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include a copy of an inheritance certificate from the Cluj local court which indicates that the sole heir of Karl Gerö was his wife, [REDACTED], née [REDACTED]; a copy of the will of [REDACTED], née [REDACTED], which indicates that her sole heir was her daughter, [REDACTED 2], née [REDACTED]; and a copy of a health document issued by the Israeli immigration office in Bucharest, Romania to [REDACTED 2] and her son [REDACTED 1].

The CRT notes that the Bank's documents indicate that the Account Owner may have other surviving relatives, but because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The Issue of Who Received the Proceeds

The records submitted by the Claimant indicate that most of the balance of the account denominated in British Pound Sterling that was held by the Account Owner was transferred to the *Anglo Palestine Bank* in 1952, and that the remaining 4% of the total balance of the account, namely £94.05.08, was transferred back to the Bank in Zurich. Given that the Claimant submitted a letter from a Swiss lawyer to the Claimant's mother, indicating that that lawyer had secured £2,497.00 from the Bank for her, which is the approximate total of the amount transferred to the *Anglo Palestine Bank* by the Bank in 1950, the CRT concludes that the Account Owner's heirs received the proceeds of that account.

The records submitted by the Claimant also indicate that the Swiss lawyer was further able to secure 5,875.00 United States Dollars (“US \$”) from the Bank, and that that amount was also transferred to the Account Owner’s heirs. Neither the Claimant nor the Bank submitted to the CRT any additional documents regarding this account.

The CRT has concluded that the ledger sheet for the British Pound Sterling account also indicates the existence of an account of unknown type held by the Account Owner. The CRT notes that the references to transfers into that account from a “Swiss Franc account” most plausibly refer to an account held by the Account Owner, given that the other transfers of funds into and out of the Pound Sterling account are labeled on the ledger sheet with the name of the creditor or debtor. Consequently, the CRT concludes that the Bank’s records indicate that the Account Owner held an account of unknown type, denominated in Swiss Francs, as well as a safe deposit box; there is no information in the records submitted by the Claimant, or in the Bank’s records, concerning the final disposition of these accounts.

Given that there is no record of the payment of those two accounts to the Account Owner nor any record of a date of closure of those accounts; that the Bank’s records and the records submitted by the Claimant indicate that the Account Owner’s heirs were not able to obtain complete information about the Account Owner’s accounts 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 (e) 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 proceeds of those two accounts 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 represented party [REDACTED 2]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his grandfather and the represented party’s father, 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 account of unknown type or the safe deposit box.

Amount of the Award

In this case, the Account Owner held one account of unknown type denominated in Swiss Francs and one safe deposit box. 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 SF 3,950.00, and the value of a safe deposit box was SF 1,240.00, for a total historical value of SF 5,190.00. 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 an award amount of SF 64,875.00.

The CRT also notes that the Claimant paid a search fee of SF 300.00 in 1996, when he requested that the Swiss Bank Contact Office search for accounts held by Karl Gerö. Correspondence submitted by the Claimant indicates that SF 200.00 of this search fee was refunded to the Claimant because the search was unsuccessful, thus SF 100.00 representing the value of the non-reimbursed search fee is added to the amount being awarded to the represented party, for a total award amount of SF 64,975.00.

Division of the Award

According to Article 23(2) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimant submitted a court document indicating that the sole heir of Karl Gerö was his wife [REDACTED], and a copy of the will of [REDACTED], indicating that her sole heir was her daughter, [REDACTED 2], who is the represented party. Accordingly, represented party [REDACTED 2] is entitled to the total award amount.

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 claims 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
18 December 2008