

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by [REDACTED]

and to Claimant [REDACTED 2]

in re Account of Gilel Ginzburg

Claim Numbers: 203879/KG; 214352/KG

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 Hilel Ginsburg, and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Gilel Ginzburg. This Award is to the published account of Gilel Ginzburg (the “Account Owner”) at the Zurich 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 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his brother, Gilel Welwel Ginzburg, who was born on 3 May 1918 in Krustpils, Latvia, to [REDACTED] and [REDACTED]. Claimant [REDACTED 2] stated that his brother, who was Jewish, resided in Krustpils at Rigas 159 from 1918 until 1938. Claimant [REDACTED 2] stated further that his brother never married. According to Claimant [REDACTED 2], Gilel Ginzburg traveled to Switzerland to recuperate from a lung disease. Claimant [REDACTED 2] stated that his brother was drafted into the Latvian Army in 1941, after which time his family never heard from him again. Claimant [REDACTED 2] stated that he had heard from his neighbors in Latvia that his brother had returned to Krustpils shortly after the outbreak of the Second World War but was unable to find his family, as they had fled to Russia. Claimant [REDACTED 2] stated further that his neighbors had heard that Gilel Ginzburg had been shot by a member of the Nazi-assisted Latvian fascist military association (“*Aizsags*”). Claimant [REDACTED 2] indicated that his parents as well as his sister, [REDACTED], née

[REDACTED], (who is his only other sibling), are also deceased. In support of his claim, Claimant [REDACTED 2] submitted a sworn statement from a neighbor in Krustpils, dated 26 May 2001, stating that she knew Claimant [REDACTED 2]'s family, including Gilel Ginzburg. In addition, Claimant [REDACTED 2] also submitted his own and his sister's birth certificates re-issued by the Yekabpils State Notary Office in 1991 and 1992, respectively, all indicating that the Claimant and his sister's family name was Ginzburg or Ginsburg.

Claimant [REDACTED 2] indicated that he was born on 20 May 1920 in Varakljani, Latvia.

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her father, Hilel Ginsburg, who was born in 1875 in Minsk, Belarus, and was married to [REDACTED], née [REDACTED], in 1904 in Minsk. Claimant [REDACTED 1] indicated that, from the time of his birth until 1943, her father, who was Jewish, lived in Belomorskaya, Minsk. According to Claimant [REDACTED 1], between 1904 and 1933, her father owned a transportation business in Minsk. Claimant [REDACTED 1] indicated that, in 1934, her father sold his business and bought various items of jewellery and a large house, which he furnished expensively and that, at the same time, he commenced employment with a construction company, also in Minsk. According to Claimant [REDACTED 1], in 1942 all of her father's possessions were taken by the Nazis, who also forced him to perform slave labor which was beyond his physical capability. Claimant [REDACTED 1] indicated that her father was killed by the Nazis in 1943 while performing slave labor in Minsk.

In support of her claim, Claimant [REDACTED 1] submitted her marriage certificate, indicating that her maiden name was Ginzburg and that she was the daughter of Gilel (Hilel or Gilyar) Ginzburg.¹

Claimant [REDACTED 1] indicated that she was born on 20 August 1918 in Minsk, Belarus.

Information Available in the Bank's Record

The Bank's record consists of an extract from a suspense account ledger. According to this record, the Account Owner was Gilel Ginzburg. The Bank's record does not contain information about the Account Owner's domicile. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated.

The account was transferred to a suspense account on 26 November 1946. The amount in the account on the date of its transfer was 100.00 Swiss Francs ("SF"). The Bank's record shows that fees continued to be deducted from the account up until at least 30 March 1960, when the value of the account was SF 12.00. There is no explanation as to why fees continued to be deducted from the account after it was suspended.

¹ The CRT notes that the document provided by Claimant [REDACTED 1] is in the Cyrillic alphabet and that consequently the names contained in this document may be transliterated into English in various ways.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecutions pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) did not find this 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 record 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The name of Claimant [REDACTED 2]’s brother and the name of Claimant [REDACTED 1]’s father both match the published name 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 name.

In support of his claim, Claimant [REDACTED 2] submitted a sworn statement from a neighbor in Krustpils, stating that she knew Claimant [REDACTED 2]’s family, including Gilel Ginzburg. In support of her claim, Claimant [REDACTED 1] submitted her marriage certificate, indicating that her maiden name was Ginzburg and that she was the daughter of Gilel (or Gilyar or Hilel) Ginzburg, providing independent verification that the person who is claimed to be the Account Owner had the same name as the name of the Account Owner recorded in the Bank’s records.

The CRT further notes that Claimant [REDACTED 2]’s relative and Claimant [REDACTED 1]’s relative 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 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 there are no other claims to this account, the CRT finds that Claimant [REDACTED 2] and Claimant [REDACTED 1] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 2] and Claimant [REDACTED 1] have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Each of the Claimants stated that the Account Owner was Jewish. Claimant [REDACTED 2] stated that the Account Owner was living in Latvia at the time the Nazis invaded Latvia and that he was possibly shot by the *Aizsags* and Claimant [REDACTED 1] indicated that the Account owner was killed by the Nazis in 1943.

The Claimants' Relationship to the Account Owner

The Claimants have each 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 brother and Claimant [REDACTED 1]'s father.

Claimant [REDACTED 1] submitted a copy of her marriage certificate which indicated that Gilel (or Gilyar or Hilel) Ginzburg was her father.

Claimant [REDACTED 2] submitted copies of his and his sister's birth certificates, which provide independent verification that Claimant [REDACTED 2]'s relatives bore the same family name as the Account Owner. The CRT notes that the information provided by Claimant [REDACTED 2] is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2] as a family member, and all this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that, according to Claimant [REDACTED 2], the Account Owner was probably shot by a member of the Nazi-assisted *Aizsags* and that, according to Claimant [REDACTED 1], the Account Owner was killed by the Nazis in Minsk in 1943; 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), (i) 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 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, Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his brother and Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her 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 claimed account.

Amount of the Award

In this case, the Account Owner held one account, the type of which is not indicated. The Bank's record indicates that the value of this account as at 26 November 1946 was SF 100.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 30.00 which reflects the standardized bank fees charged to the account between 1945 and 1946. Consequently, the adjusted balance of the account at issue is SF 130.00. According to Article 29 of the Rules, if the amount in an account, the type of which is not indicated, 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 present 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 of the Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total 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
15 July 2005