

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Irving Imre Goldberger
acting on behalf of Julia Ribak, Marilyn Ava Blumenberg
and Jeanette Trujillo
represented by Steven B. Longland

in re Account of Michel Goldberger

Claim Numbers: 204252/AX; 779348/AX¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Irving Imre Goldberger (the “Claimant”) to the published account of Michel Goldberger (the “Account Owner”) at the Geneva branch 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 (“IQ”) identifying the Account Owner as his father, Mihaly (Michel or Mechel) Goldberger, who was born in 1896 in Tiszabered, Hungary, and was married to Julia Goldberger, née Glück, in 1922 in Kesmark, Hungary. The Claimant explained that his parents had five children: Anna, Irene, Cornelia, Marilyn and the Claimant. The Claimant stated that his father was the president of a company named *Goldberger Textile*, which was located in Nyiregyhaza, Hungary, where the Claimant’s family also resided. The Claimant explained that his father opened a Swiss bank account for his children, along with five insurance policies bought from a company in Switzerland. The Claimant further stated that his parents, who were Jewish, perished in Auschwitz, and that he himself was deported to Auschwitz and Bergen-Belsen. The Claimant stated that after the Second World War, he emigrated to the United States. In support of his claim, the Claimant submitted his United States certificate of naturalization and passport, showing that his name is

¹ Claimant Irving Goldberger submitted an Initial Questionnaire (“IQ”), numbered ENG 0364 112, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned Claim Number 779348.

Irving (Imre) Goldberger, and his Swedish foreigner's passport issued in 1947, showing that his name was Imre Goldberger.

The Claimant stated that he was born on 21 January 1924 in Kisvarda, Hungary. The Claimant represents his nieces, Julia Ribak, who is the daughter of his late sister, Anne Hene Wendruck, and Marilyn Ava Blumenberg and Jeanette Trujillo, who are the daughters of his late sister, Irene Koci-Rivka Brass.

Information Available in the Bank's Records

The Bank's records consist of extracts from suspense account ledgers. According to these records, the Account Owner was Michel Goldberger. The Bank's records do not contain information about the Account Owner's domicile. According to the Bank's records, the Account Owner held an account, the type of which is not indicated. The account was transferred to a suspense account for dormant assets on 22 May 1951. The amount in the account on the date of its transfer was 47.00 Swiss Francs ("SF").

The Bank's records do not show when this account was closed. 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 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 records 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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant's father's name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Mihaly Goldberger, 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 Claimant has based his present claim not

simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative 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 there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 perished in Auschwitz.

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, demonstrating that the Account Owner was the Claimant's father. The CRT further notes that the Claimant submitted a copy of his United States certificate of naturalization and passport, showing that his name is Irving (Imre) Goldberger, and his Swedish foreigner's passport, issued in 1947, showing that the Claimant's name was Imre Goldberger, which provides independent verification that the Claimant bears the same family name as the Account Owner, which supports the plausibility that the Claimant 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 other than the parties which the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in a concentration camp; that the account was transferred to a suspense account after the Second World War; that there is no record of the payment of the account to the Account Owner, nor any record of a date of closure of the account; that the Account Owner or 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) and (j), as provided in Article 28 of 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 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 Owner was his father and that relationship

justifies an Award. Finally, 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 of unknown type. The Bank's records indicate that the value of the account of unknown type as of 22 May 1951 was SF 47.00. In accordance with Article 31(1) of Rules, this amount is increased by an adjustment of SF 105.00, which reflects standardized bank fees charged to the account between 1945 and 1951. Consequently, the adjusted balance of the account at issue is SF 152.00. 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 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 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his niece, Julia Ribak, the daughter of his late sister, Anne Hene Wendruck, née Goldberger, and Marilyn Ava Blumenberg and Jeanette Trujillo, the children of his late sister Irene Koci-Rivka Brass, née Goldberger. Accordingly, both the Claimant and Julia Ribka are each entitled to one-third of the total award amount, and Marilyn Ava Blumenberg and Jeanette Trujillo are each entitled to one-sixth of 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 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
30 December 2004