

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Haim Grimberg

Claim Number: 222732/PY¹

Award Amount: 258,700.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the "Claimant"), to the published account of Haim Grimberg (the "Account Owner") at the Zurich branch of the [REDACTED] ("Bank I") and to the Account Owner's unpublished accounts at the [REDACTED] ("Bank II").

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 Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father, Haim Itic Grimberg, who was born on 14 December 1883 in Braesti Yassi, Romania, and was married to Sophie Grimberg, née Schik, on 1 February 1926 in Bucharest, Romania. According to the Claimant, her parents had two daughters: the Claimant and her sister, [REDACTED], who is deceased. The Claimant indicated that her father, an engineer and the owner of a laboratory by the name of *Mercur*, resided and worked between 1926 and 1939 at 95 Calea Mosilor, Bucharest. The Claimant stated that her father, who was Jewish, left Bucharest in 1939 with his family for Nîmes, France, where he lived in a hotel until 1941. The Claimant further stated that her father's several requests for a visa to enter Switzerland were denied and that from 1941 until the end of the Second World War her father lived in hiding in France. The Claimant stated that her father became paralyzed and died on 10 July 1946 in Nîmes, and that her mother died on 25 January 1947, also in Nîmes.

In support of her claim, the Claimant submitted a deposit slip issued by the Zurich branch of Bank I on 30 April 1940 to the owner of a custody account numbered account 60593, who the

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers: 222731 and 222732. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 222732.

Claimant indicates was her father. The deposit slip indicates the deposit of the following assets in the custody account: (1) 2,000.00 Romanian Leis in notes, (2) 20.00 United States Dollars in gold coins, (3) 280.00 French Francs in gold coins, and (4) a one kilogram fine gold bar, numbered 237, with a certificate from the *Société Nouvelle du Comptoir Lyon-Alemand, Paris*.

Furthermore, the Claimant submitted a letter from Bank II to her father, dated 17 November 1941. This letter indicates that the Claimant's father held a demand deposit account and a custody account, which had been blocked. The letter further indicates that at that time, the Claimant's father resided in Nîmes at the *Hôtel Cheval Blanc*. In this letter, Bank II acknowledged that Haim Grimberg did not wish to make any transfers to his place of residence, but at the same time advised him that if he did not contact the Swiss Clearing Office, his blocked demand deposit account would have to be transferred back to the clearing authorities. Bank II informed Haim Grimberg that they contacted the Clearing Office and informed them that Haim Grimberg would visit Switzerland around Christmas 1941 and applied for an extension of the deadline until the end of 1941 on his behalf. Bank II informed Haim Grimberg that following his instructions, 2,500.00 Swiss Francs from his demand deposit account were used to buy 3 1/4% *Eidgenössische Anleihe 1941* bonds at a nominal value of 2,500.00 Swiss Francs, which were placed in the custody account that had been opened for the purpose of that purchase.

The Claimant also submitted her birth certificate, which indicated that she was born in Bucharest, and that her parents were Haim and Sophie Grimberg; her mother's death certificate, and a copy of her father's Swiss insurance policy, issued on 1 March 1938, indicating that he resided in Bucharest, and that the beneficiaries of the policy were his two children [REDACTED] and [REDACTED].

The Claimant indicated that she was born on 1 May 1928 in Bucharest.

Information Available in the Banks' Records

Bank I

Bank I's record consists of a safe deposit box card. According to this record, the Account Owner was Haim Grimberg, who resided at 95 Calea Mosilor, Bucharest, Romania, and the Power of Attorney Holder was his spouse, Sophie Grimberg. Bank I's record indicates that the Account Owner rented a safe deposit box, numbered 514, on 13 May 1933. Bank I's record also indicates that according to a letter, dated 22 April 1940, the safe deposit box was emptied on 30 April 1940 and its contents were treated as prescribed in the said letter. Bank I's record further indicates that the Account Owner and Power of Attorney Holder consented to the emptying of the safe deposit box on 30 April 1940 by signing against this date on the safe deposit box card. According to Bank I's record, the annual safe fees were paid for the last time on 16 May 1939 and the account was charged fees of 50.00 Swiss Francs for the replacement of the safe keys and lock on 9 August 1940. Bank I's record does not show to whom the contents of the safe were paid, nor does this record indicate the value of these assets.

The auditors who carried out the investigation of Swiss Banks to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (the “ICEP Investigation”) did not report the numbered custody account at Bank I identified in the deposit slip that was submitted to the CRT by the Claimant.

Bank II

The auditors who carried out the ICEP Investigation did not report any account at Bank II belonging to Haim Grimberg.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her parents’ names and city of residence match the published names and city of residence of the Account Owner and the Power of Attorney Holder. The Claimant identified the unpublished family relationship between the Account Owner and the Power of Attorney Holder. Moreover, the Claimant indicated her father’s street address in Bucharest, which matches unpublished information contained in Bank I’s record. The Claimant submitted a deposit slip, demonstrating that her father held a custody account at the Zurich branch of Bank I, where the Account Owner’s safe deposit box was held. The CRT notes that the date of this deposit slip coincides with the date that the safe deposit box at issue was emptied, which supports the plausibility of the identification. The Claimant also submitted her birth certificate, indicating that she was born in Bucharest and that her parents were Haim and Sophie Grimberg; her mother’s death certificate, and her father’s Swiss insurance policy issued on 1 March 1938, also indicating that her father resided in Bucharest.

The CRT notes that there were two other claims to the accounts. One claim was disconfirmed because the claimants provided a different spouse’s name than the name of the Account Owner’s spouse. The other claim was disconfirmed because the CRT has concluded that the information provided by that claimant is inconsistent with the information provided by the Claimant here, who identified unpublished information regarding the Account Owner and submitted supporting documentation, as indicated above. Specifically, that claimant did not identify the Account Owner’s street address and did not submit documents to support his information regarding the Account Owner. That claimant indicated that the claimed account owner resided in Bucharest after the Second World War and passed away in Israel, which is inconsistent with the information provided by the Claimant here regarding 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 was in hiding in France during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents demonstrating that she is his daughter. These documents include the Claimant's birth certificate, indicating that her father was Haim Grimberg, and a copy of her father's Swiss life insurance policy, indicating that the beneficiaries of the policy were his children, the Claimant and her sister. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the safe deposit box, the CRT notes that it was emptied on 30 April 1940, prior to the German invasion of France, where the Account Owner resided at that time, and that the Account Owner and the Power of Attorney Holder consented to the emptying of the safe deposit box by signing their names against the date on which it was emptied. Furthermore, the CRT notes that the date of the deposit slip submitted by the Claimant, documenting the deposit of various assets in a custody account, coincides with the date of emptying of the safe deposit box. This document demonstrates that the Account Owner communicated with Bank I on 30 April 1940. The coincidence of the dates also supports a conclusion that the contents of the safe deposit box were deposited in the custody account, as described in the said deposit slip. Consequently, the CRT determines that the contents of the safe deposit box account were paid to the Account Owner.

With regard to the custody account at Bank I, and the custody and demand deposit accounts at Bank II, given that there is no record of the date of closure of these accounts, nor of any record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 (h) 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 accounts 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 her father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the custody account at Bank I and the accounts at Bank II.

Amount of the Award

In this case, the Account Owner held two custody accounts and one demand deposit account.

With regard to the custody account at Bank I, the deposit slip provided by the Claimant indicates that the custody account contained 2,000.00 Romanian Leis in notes, 20.00 United States Dollars in gold coins, 280.00 French Francs in gold coins, and one kilogram fine gold bar, numbered 237, with a certificate of *Société Nouvelle du Comptoir Lyon-Alemand, Paris*. Based on the information available to the CRT, the official Romanian Lei to Swiss Francs exchange rate as of 1 January 1945 was 0.05 Swiss Francs per 100 Romanian Leis; the value of a one United States Dollar gold coin as of 1 January 1945 was 7.90 Swiss Francs; the value of a 20 French Franc gold coin as of 1 January 1945 was 30.50 Swiss Francs; and the value of a one-kilogram fine gold bar as of 1 January 1945 was 4,970.00 Swiss Francs. Consequently, the value of 2,000.00 Romanian Leis was 1.00 Swiss Franc; the value of 20.00 United States Dollars in gold coin was 158.00 Swiss Francs; and the value of 280.00 French Francs in gold coins was 427.00 Swiss Francs. Therefore, the total value of the assets deposited in the custody account was 5,556.00 Swiss Francs as of 1 January 1945. According to Article 29 of the Rules, if the amount in a custody account was less than 13,000.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 13,000.00 Swiss Francs. In the present case, however, the value of the custody account was calculated on the basis of the evidence provided by the Account Owner's daughter. The Claimant also did not indicate that the custody account contained assets other than the ones listed on the deposit slip. Consequently, the CRT determines that the value of the custody account in this case was 5,556.00 Swiss Francs. 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 amount of 69,450.00 Swiss Francs.

With regard to the demand deposit account at Bank II, 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 a demand deposit account was 2,140.00 Swiss Francs. 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 amount of 26,750.00 Swiss Francs.

With regard to the custody account at Bank II, the letter from Bank II submitted by the Claimant indicates that it contained *3 1/4% Eidgenössische Anleihe 1941* bonds at a nominal value of 2,500.00 Swiss Francs. Based on the information available to the CRT, the market value of those bonds as of 1 January 1945 equaled their nominal value. According to Article 29 of the Rules, if the amount in a custody account was less than 13,000.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 13,000.00 Swiss Francs. In the present case, the evidence provided by the Account Owner's daughter shows that the custody account was created for the purpose of purchasing securities for 2,500.00 Swiss Francs. It is not clear, however, that the custody account contained only those securities. Accordingly, the CRT determines that the evidence provided by the Account Owner's daughter does not constitute plausible evidence to the contrary sufficient to rebut the presumptive value of a custody account. Therefore, and pursuant to Article 29 of the Rules, the

CRT determines that the amount in the custody account was 13,000.00 Swiss Francs. 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 amount of 162,500.00 Swiss Francs.

Thus, the total award amount is 258,700.00 Swiss Francs.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
28 May 2004