

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]¹

in re Account of Armand Grosz

Claim Numbers: 213487/MD; 213488/MD; 213500/MD; 213501/MD

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”) to the published account of Armand Grosz (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

The Claimants each submitted two Claim Forms identifying the Account Owner as Armand Armin Grosz, who was born on 25 September 1899 in Varin, then Austria-Hungary, the son of [REDACTED] and [REDACTED]. The Claimants stated that Armand Grosz was married to Hilda Baum, and that the couple had three children who were born in Prague, Czechoslovakia:

¹ Claimant [REDACTED 1]’s brother, [REDACTED], has opted out of these proceedings. He elected to opt-out of the Class Action Settlement in a series of letters submitted to the CRT. A letter from the CRT to [REDACTED] dated 11 March 2002 states that, because he elected to opt out of the class, the CRT lacked the authority to adjudicate his claims. [REDACTED] replied on 16 May 2002 asking the CRT to adjudicate his claims without his joining the class action or to forward his claims to a department that could. The CRT responded to [REDACTED] in a letter dated 30 July 2002, stating that his election to opt out was, by order of the Court of 7 July 2002, now null and void provided he wanted to have the election revoked, and that unless he responded by 31 August 2002, he would be considered a part of the class. [REDACTED] replied on 15 August 2002, confirming that he did not want to join the U.S. class action because he found the associated conditions to be unacceptable. A final letter was sent to [REDACTED] on 10 February 2004, stating that unless he responded within thirty days of the date of the letter, he would not be included in this award for the accounts of Armand Grosz. In a letter dated 8 March 2004, [REDACTED] again confirmed his “decision not to participate in the CRT class action.” Accordingly, the CRT is awarding these accounts to Claimant [REDACTED 1] and Claimant [REDACTED 2].

[REDACTED], who was born in 1926; [REDACTED] (Claimant [REDACTED 1]'s mother), who was born in 1929; and [REDACTED] (Claimant [REDACTED 2]), who was born in 1935. According to the Claimants, Armand Grosz was the director of a stove factory named *L.C. Hardtmuth* located in Prague. The Claimants indicated that Armand Grosz lived with his family at ulica Dr. Wintra 5 in Prague, and that during his business trips he lived at rue Dardanelles 9 in Paris, France.

According to the information provided by the Claimants, their relative, who was Jewish, was able to conceal his Jewish origin until 1944, when he and his wife were arrested by the *Gestapo*. The Claimants stated that Armand Grosz perished in the Mauthausen concentration camp, and that Hilda Grosz perished in the Ravensbrück concentration camp. The Claimants indicated that [REDACTED] died in 1994 in Prague, and that [REDACTED], née [REDACTED], died in 1980, also in Prague. Claimant [REDACTED 1] stated that he is [REDACTED]'s son and that he was born on 14 September 1954 in Prague.

In support of their claims, the Claimants submitted copies of the passports of Armand and Hilda Grosz with their signatures, decisions certifying the deaths of Armand and Hilda Grosz, as well as a certificate of inheritance with respect to Armand Grosz' estate, which indicates that his daughters [REDACTED], [REDACTED 2] and [REDACTED] inherited his estate in equal shares. In addition, the Claimants submitted their own birth certificates and the birth certificate of Claimant [REDACTED 1]'s mother, [REDACTED], which indicate that Armand Grosz was their father and grandfather, respectively. Finally, the Claimants submitted [REDACTED]'s death certificate. The documents provided by the Claimants indicate that Armand Grosz's children and their families lived in Czechoslovakia after 1945.

The Claimants previously submitted an ATAG Ernst & Young claim form in 1998, asserting their entitlement to a Swiss bank account owned by Armand Grosz, and that account was awarded to the Claimants and Claimant [REDACTED 1]'s brother. Claimant [REDACTED 2] also previously submitted an Initial Questionnaire with the Court in 1999, asserting the same.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, an account opening contract, a registry card, internal bank correspondence and a decision rendered by the Claims Resolution Tribunal for Dormant Accounts in Switzerland (the "CRT-I"). According to these records, the Account Owner was Armand Grosz, a Czechoslovak citizen who used the address rue Dardanelles 9 in Paris, France. The Power of Attorney Holder was Mrs. Hilda Grosz, née Baum. The Bank's records indicate that the Account Owner held a custody account and a demand deposit account. The accounts were opened on 5 August 1938 and were numbered 66338. The value of the custody account as of 17 February 1945 was 757.00 Swiss Francs. The Bank's records indicate that the custody account was closed on 7 April 1949. The value of the custody account on the date of its closure is unknown. There is a notation in the records that the custody account was frozen in February 1945 pursuant to the 1945 Swiss Freeze of German Assets, and that the account was considered for the 1962 Survey, which required banks to register any dormant (since 9 May 1945) assets held by foreigners or stateless individuals known or presumed to have

fallen victim to racial, religious or political persecution. The custody account was not registered in the 1962 Survey. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the custody account and received the proceeds themselves.

The decision rendered by CRT-I indicates that the demand deposit account was paid to the Claimants and to Claimant [REDACTED 1]'s brother, [REDACTED], who has chosen to opt-out of these proceedings, pursuant to a Final Award rendered by CRT-I in an arbitration (the "Arbitration") concluded on 13 December 2000. The parties to the Arbitration were the Bank, the Claimants and [REDACTED]. The CRT-I determined that the Claimants and [REDACTED] were entitled to an adjusted amount of 63,005.00 Swiss Francs (SF). This value was determined based on submissions showing that the earliest known value of this demand deposit account was 4,590.50 Swiss Francs in 1963, from which the CRT-I calculated a 1945 value of SF 6,300.50.²

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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their relatives' names match the published name of the Account Owner and the unpublished name of the Power of Attorney Holder. The Claimants stated that Armand Grosz was a Czechoslovak citizen, and this information matches unpublished information about the Account Owner contained in the Bank's records. Furthermore, the Claimants provided the address used by their relative in Paris, which also matches unpublished information contained in the Bank's records. Finally, the Claimants submitted samples of their relatives' signatures, which match the signature samples contained in the Bank's records. Furthermore, the CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than that of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Armand Armin Grosz, and indicates that his date of birth was 25 September 1899, 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.

Status of The Account Owner as a Victim of Nazi Persecution

² The CRT notes that later available documentation shows the earliest date of known value to have been 17 February 1945 and that the amount on that date was SF 4,179.50.

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner, who was Jewish, lived in hiding in Czechoslovakia during the Second World War until he was discovered by the *Gestapo* and was subsequently deported to the Mauthausen concentration camp, where he perished.

As noted above, a person named Armand Armin Grosz was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting their own birth certificates, the birth certificate of Claimant [REDACTED 1]'s mother, and probate decisions, demonstrating that Claimant [REDACTED 2] is the Account Owner's daughter, and that Claimant [REDACTED 1] is the son of the Account Owner's deceased daughter.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in a Nazi concentration camp before the closure date of the custody account; given that there is no record of the payment of the Account Owner's accounts to him or his heirs; given that the Account Owner or his heirs would not have been able to obtain information about his account after the Second World War 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 (a), (f), (h), (i), and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds of the custody account at the Bank were not paid to The Account Owner, the Power of Attorney Holder, or their 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 2] father and Claimant [REDACTED 1] grandfather, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the custody account at the Bank.

Amount of the Award

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

As noted above, the demand deposit account was paid to the Claimants and to Claimant [REDACTED 1]'s brother, [REDACTED], pursuant to the award rendered by the CRT-I.

As for the custody account, the Bank's records indicate that the value of the account as of 17 February 1945 was SF 757.00. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. The current value of this amount 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 the total award amount of SF 162,500.00.

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. Accordingly, the Claimants are each entitled to one-half of the award.

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
8 August 2004