

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

and to Claimant [REDACTED 2]

in re Account of Armand Grosz

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

Award Amount: 74,552.75 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Armand Grosz (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).^{1, 2}

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants, who are related, submitted two substantially similar Claim Forms identifying the Account Owner as Claimant [REDACTED 1]’s father and Claimant [REDACTED 2]’s maternal grandfather, Armand Armin Grosz, who was born on 25 September 1899 in Varin, Austria-Hungary (today Slovakia), and was married to [REDACTED], née [REDACTED], on 6 November 1924 in Prague, Czechoslovakia (today the Czech Republic). The Claimants indicated that their relative, who was Jewish, had three children: [REDACTED], [REDACTED] (Claimant [REDACTED 2]’s mother), and [REDACTED 1] (Claimant [REDACTED 1]). The Claimants indicated that Armand Grosz was the director of a stove factory named *L.C. Hardtmuth* in Prague, and that he maintained an apartment at rue Dardanelles 9 in Paris, France.

¹ In a separate decision, the CRT awarded a different account of Armand Grosz, which was held at a different bank than the account address in this decision, to the Claimants. See *In re Account of Armand Grosz* (approved on 8 August 2004).

² The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the name Armand Grosz appears twice. Upon careful examination of its records, the CRT has determined that these names refer to the same person. This decision refers to the account incorrectly published as “Armand Grosz [Poland] [1].” The CRT has determined that the Bank’s records do not indicate that Armand Grosz resided in Poland.

The Claimants indicated that Armand Grosz and his family went into hiding during the Second World War and were arrested by the Gestapo in 1944 in Prague. The Claimants indicated that Armand Grosz perished on 10 March 1945 in the concentration camp at Mauthausen, and that [REDACTED] perished in the concentration camp at Ravensbrück.

The Claimants submitted copies of:

- (1) the passport of Armand Grosz, bearing his signature and indicating that he was born on 25 September 1899 in Varin;
- (2) the passport of [REDACTED], bearing her signature and indicating that she was born on 4 November 1901 in Prague;
- (3) a certificate of citizenship, issued on 26 April 1936, indicating that Armand Grosz, who was the director of a plant, his wife [REDACTED], née [REDACTED], and their children [REDACTED], [REDACTED], and [REDACTED 1] were citizens of Czechoslovakia;
- (4) an extract from register of the Federation of Jewish Communities in Prague, indicating that Armand Grosz and his wife [REDACTED] were arrested during the Second World War in Prague and transported to Auschwitz;
- (5) the death certificate of Armand Grosz, indicating that he perished at the Mauthausen concentration camp on 10 March 1945;
- (6) the death certificate of [REDACTED], indicating that she perished in March 1945 at the Ravensbrück concentration camp;
- (7) a certificate of inheritance, indicating that the estate of Armand and [REDACTED] was divided in equal shares between their daughters [REDACTED], [REDACTED 1], and [REDACTED];
- (8) a decree, issued by the District Council of Prague on 13 February 1950, indicating that [REDACTED] was a Czechoslovakian citizen as of 1930, and that she was deported with her husband to Theresienstadt and Ravensbrück, and that her property would not be confiscated from her three daughters [REDACTED], [REDACTED], and [REDACTED 1];
- (9) Claimant [REDACTED 1]'s birth certificate, indicating that [REDACTED 1] was born on 14 August 1935 in Prague to Armand Grosz, who was the director of the company *L. & C. Hardtmuth*, and [REDACTED], née [REDACTED];

- (10) Claimant [REDACTED 1]’s passport, indicating that [REDACTED 1], née [REDACTED], was born on 14 August 1935 in Prague;
- (11) Claimant [REDACTED 2]’s birth certificate, indicating that he was born on 14 September 1954 in Prague and was the son of [REDACTED] and [REDACTED], née [REDACTED];
- (12) Claimant [REDACTED 2]’s passport, indicating that [REDACTED 2] was born on 14 September 1954 in Prague to [REDACTED] and [REDACTED];
- (13) Claimant [REDACTED 2]’s mother’s death certificate, indicating that [REDACTED], née [REDACTED], was married to [REDACTED], and died on 14 March 1980 in Prague;
- (14) a certificate of inheritance, indicating that [REDACTED]’s heirs were [REDACTED], [REDACTED] and [REDACTED];
- (15) a certificate of inheritance, indicating that [REDACTED] died on 27 May 1985, and that his heirs were [REDACTED] and [REDACTED 2]; and
- (16) [REDACTED]’s death certificate, indicating that she died on 11 October 1994 in Prague.

Claimant [REDACTED 1] indicated that she was born on 14 August 1935 in Prague, and Claimant [REDACTED 2] indicated that he was born on 14 September 1954 in Prague.

The Claimants previously submitted two ATAG Ernst & Young claim forms (“ATAG Forms”) in 1998, and Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting their entitlement to Swiss bank accounts owned by Armand Grosz.

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database. According to these records, the Account Owner was Armand Grosz, a Czech citizen who was domiciled in France. The records show that the Account Owner held an account of unknown type, which held a balance of 8,000.00 Swiss Francs (“SF”). The Bank’s records do not show if or when the account at issue was closed, or to whom it was paid. 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”) 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, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

Additional documents evidencing an account belonging to Armand Grosz were submitted by the Bank to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT-I”), and are further described below.

The Proceedings before the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT-I”)

The Claimants, along with [REDACTED],³ who is Claimant [REDACTED 2]’s brother, previously submitted ATAG Forms in 1997, asserting their entitlement to accounts owned by Armand Grosz, whose name was published on the 23 July 1997 list of non-Swiss dormant accounts published by the Swiss Bankers Association (the “1997 List”).⁴ The Claimants provided information to CRT-I, which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001, which is consistent with the information later provided, as summarized above.

The records that the Bank submitted to CRT-I consist of copies of a contract for the rental of a safe deposit box, a signed power of attorney form, receipts for the payment of rental fees for safe deposit box S674, correspondence between the Bank and the Account Owner, documents pertaining to the 1962 Survey, as further described below, internal bank memoranda, five reports of the opening of a safe deposit box, correspondence between the Bank and Swiss officials, records from the Swiss Federal Archive in Bern, and correspondence between Claimant [REDACTED 2] and the Swiss Banking Ombudsman.

According to these records, the Account Owner was Armand Grosz, who lived at Rue Dardanelle 9, Paris, France and the Power of Attorney Holder was his wife, [REDACTED], née

³ Claimant [REDACTED 2]’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 an award to other accounts belonging to Armand Grosz. In a letter dated 8 March 2004, [REDACTED] again confirmed his “decision not to participate in the CRT class action.” Those other accounts were accordingly awarded to Claimant [REDACTED 2] and Claimant [REDACTED 1]. See note 1, *supra*.

⁴ On 13 December 2000, the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT-I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001, treated the Claimants’ claims to an account of Armand Grosz at a different Swiss bank (see Partial Award and Final Award, Docket Number 6071/0898).

[REDACTED]. These documents indicate that the Account Owner held a safe deposit box, numbered S674. These documents indicate that the account was opened on 4 August 1938. These documents indicate that the Bank attempted to contact the Account Owner at his Paris address in 1955 and 1958, but that the letters were returned as undeliverable.

The first report of the opening of a safe deposit box, dated 3 December 1959, indicates that safe deposit box S674 was forcibly opened for nonpayment of fees and found to contain several items of jewelry and two receipts. The second report of the opening of a safe deposit box, dated 23 December 1963, indicates that the safe deposit box was again opened, this time pursuant to the Federal Decree of 20 December 1962 (the “Federal Decree”), through which the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the “1962 Survey”). This document indicates that on 23 December 1963, the jewelry contained in the safe deposit box was appraised and that its liquidation value was SF 8,000.00. A hand-written annotation on this report indicates that on 12 February 1964, a diamond ring was removed from the safe deposit box. The third report of the opening of a safe deposit box, dated 12 February 1964, indicates that the diamond ring, with an appraised value of SF 500.00, was sold for that amount, and the proceeds credited to the Account Owner.

A registration form for the 1962 Survey, sent by the Bank to the Registration Office for Assets of Missing Foreigners (*Meldestelle für Vermögen verschwundener Ausländer*) (the “Registration Office”), dated 28 February 1964, indicates that the Account Owner was Armand Grosz, a Czechoslovakian citizen whose last known address was Rue des Dardanelles 9 in Paris, and that his last contact with the Bank was on 4 August 1939. This form indicates that the contents of the safe deposit box had a value on 28 February 1964 of SF 8,000.00, from which an asset worth SF 500.00 had been sold by the Bank to pay fees owed to the Bank by the Account Owner. An annex to this document indicates that the account had been closed on 1 September 1963.

Another document, dated 28 October 1965, indicates that the Registration Office requested that the Custody Office of the city of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) (the “Custody Office”) appoint a custodian for the assets, as prescribed by the Federal Decree, and that such a custodian was appointed on 19 December 1966. In a fourth report, dated 22 December 1972, the Custody Office instructed the Bank to transfer the contents of this and other unclaimed safe deposit boxes to an heirless assets fund (*Fonds “Erbenlose Vermögen”*) (the “Heirless Assets Fund”). According to a fifth report, dated 6 August 1973, the contents of safe deposit box S674 were inventoried and delivered to the Swiss Federal Transaction and Accounting Office (*Eidgenössisches Kassen- und Rechnungswesen*) (the “Accounting Office”) in Bern. According to a document from the Swiss Federal Archive, the documents concerning the assets of Armand Grosz were placed in a file, numbered 440, and on 20 December 1973 the Accounting Office transferred a sum of SF 11,798.00 to the Heirless Assets Fund for the value of the account.

These records also include a letter, dated 25 June 1996, from Claimant [REDACTED 2] to the Swiss Banking Ombudsman, in which he inquired about accounts belonging to Armand and

[REDACTED]. These records also include a letter, dated 22 September 1998, from the Bank to the Federal Foreign Affairs Department, Task Force “Switzerland in the Second World War” (*Eidgenössisches Departement für äussere Angelegenheiten, Task Force Schweiz im Zweiten Weltkrieg*) (the “Foreign Affairs Department”), in which the Bank informed the Foreign Affairs Department that three heirs of the Account Owner had filed claims to his account following publication of the 1997 List; that the Bank had determined that the Account Owner was a victim of the Holocaust; and that the Bank had determined that the three claimants were the likely heirs of the Account Owner.

The Claimants’ claims to this account were initially adjudicated by the CRT-I. In a Closing Order, dated 23 November 2000, the Sole Arbitrator of the CRT-I (the “Sole Arbitrator”) determined:

The Sole Arbitrator notes that the documents submitted by the Bank demonstrate that the assets in the Account were transferred to the [Registration Office] and, accordingly, it is apparent that there is nothing of value remaining in the Account.

...

On 20 November 1998, the Bank wrote to Claimants [REDACTED 1], and [REDACTED 2] and [REDACTED], explaining that they could make a claim to the [Foreign Affairs Department] for compensation under the Federal Decree of 1962. The Bank has since informed the Tribunal that these three Claimants made such claims and that these Claimants were subsequently awarded compensation. ...

By letter dated 31 October 2000, Mr. Urs Müller of the [Foreign Affairs Department] wrote to the Tribunal confirming that Claimants [REDACTED 1], and [REDACTED 2] and [REDACTED] made successful claims to the [Registration Office]...⁵

The CRT notes that in 1999, Swiss authorities published names of owners of accounts that had been reported in the 1962 Survey, and the Account Owner’s name was among those published. According to information received by the CRT from Swiss authorities, a claim was received by them for this account, and after research by those authorities, an amount of SF 28,874.00, representing the 1963 value of the account adjusted for interest, was paid out to the persons who filed the claim. The CRT notes that the Swiss authorities did not identify to the CRT the names of the persons who filed the claim and who subsequently received the funds. However, given that the correspondence referred to in the Closing Order of the Sole Arbitrator in the proceedings before the CRT-I, indicated that the Claimants and Claimant [REDACTED 2]’s brother, [REDACTED], made successful claims to the Registration Office, the CRT considers that these

⁵ See CRT-I Docket Nos. 6699/0898, 7419/0998 and 7434/0998.

claims were made by the Claimants and [REDACTED], and that the sum was paid to Claimant [REDACTED 1], Claimant [REDACTED 2], and [REDACTED].⁶

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. Claimant [REDACTED 1]'s father's name and Claimant [REDACTED 2]'s maternal grandfather's name matches the published name of the Account Owner, and Claimant [REDACTED 1]'s mother's name and Claimant [REDACTED 2]'s maternal grandmother's name matches the unpublished name of the Power of Attorney Holder. Furthermore, the Claimants correctly identified the Account Owner's country of residence, despite the fact that on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), the Account Owner's country of residence was incorrectly published as Poland.

In support of their claims, the Claimants submitted documents, including: (1) the passport of Armand Grosz; (2) the passport of [REDACTED]; (3) a Czechoslovakian certificate of citizenship for Armand Grosz and his wife [REDACTED], née [REDACTED]; (4) an extract from the register of the Federation of Jewish Communities in Prague, indicating that Armand Grosz and his wife [REDACTED] were transported to Auschwitz; (5) Armand Grosz's death certificate; (6) a certificate of inheritance regarding the estate of Armand and [REDACTED]; and (7) Claimant [REDACTED 1]'s birth certificate, providing independent verification that the person who is claimed to be the Account Owner and the Power of Attorney Holder had the same names recorded in the Bank's records and the records from the CRT-I proceedings as the name of the Account Owner and the Power of Attorney Holder. The Claimants also submitted samples of Armand and [REDACTED]'s signatures, which match the signature samples contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Armand Grosz, and indicates that his date of birth was 25 September 1899, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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

⁶ As noted above, [REDACTED] has opted out of the proceedings before the CRT.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he and his family were arrested in 1944 in Prague, and that he perished on 10 March 1945 in the concentration camp at Mauthausen. The Claimants also submitted an extract from the register of the Federation of Jewish Communities in Prague, indicating that Armand Grosz, his wife [REDACTED] and their family were arrested and transported to Auschwitz, and the death certificate of Armand Grosz, indicating that he perished at Mauthausen.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father and Claimant [REDACTED 2]'s maternal grandfather. These documents include a certificate of citizenship, indicating that Armand Grosz, his wife [REDACTED], née [REDACTED], and their children [REDACTED], [REDACTED] and [REDACTED 1] were citizens of Czechoslovakia; a certificate of inheritance, indicating that the estate of Armand and [REDACTED] was divided in equal shares between their daughters [REDACTED], [REDACTED 1] and [REDACTED]; Claimant [REDACTED 1]'s birth certificate, indicating that [REDACTED 1] was the daughter of Armand Grosz and [REDACTED], née [REDACTED]; and Claimant [REDACTED 2]'s birth certificate, indicating that [REDACTED 2] was the son of [REDACTED] and [REDACTED], née [REDACTED]. The CRT notes that the Claimants indicated that the Account Owner has other surviving relatives, but that because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimants submitted copies of the Account Owner's passport, citizenship certificate and death certificate. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

As noted above, in 1999, Swiss authorities published names of owners of accounts that had been reported in the 1962 Survey, and the Account Owner's name was among those published. According to information received by the CRT from Swiss authorities, a claim was received for the above account, and after research by those authorities, an amount of SF 28,874.00, representing the 1963 value of the account adjusted for interest, was paid out to the persons who filed the claim. The CRT notes that the Swiss authorities did not identify to the CRT the name of the persons who filed the claim and who subsequently received the funds. However, given that

the correspondence referred to in the Closing Order of the Sole Arbitrator in the proceedings before the CRT-I identified that the Claimants and Claimant [REDACTED 2]'s brother, [REDACTED], made successful claims to the Registration Office, the CRT considers that these claims were made by the Claimants and [REDACTED], and that the sum was paid to Claimant [REDACTED 1], Claimant [REDACTED 2], and [REDACTED].

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, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her father and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his grandfather, and those relationships justify an Award. Third, although Swiss authorities made a payment, presumably to the Claimants, for this account, the amount of that payment is considerably less than that provided for by the Rules.

Amount of the Award

In this case, the Account Owner held one safe deposit box, numbered S674. The CRT notes that the Swiss Federal Archive records, taken together with the other records from the proceedings before the CRT-I, indicate that the value of the contents of the safe deposit box increased from SF 8,000.00 as of 23 December 1963 to SF 11,798.00 on 20 December 1973, when the Accounting Office transferred that amount to the Heirless Assets Fund. This increase would have been due to interest credited to the account as officially required under the Registration Office rules. For the purposes of calculating the award amount, the balance closest to 1945 is used, namely the 1963 balance of SF 8,000.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 475.00, which reflects standardized bank fees charged to the safe deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 8,475.00.

The CRT notes that the payment of SF 28,874.00, representing the value of the account adjusted for interest, was made by Swiss authorities for this account following its publication in 1999. It is not clear when this payment was made, or how exactly the adjustment for interest was calculated. However, on 12 November 2001, when the first set of Deposited Assets awards were made under the Settlement Agreement in *In re Holocaust Victim Assets Litigation*, 1945 values were adjusted to current values by using an adjustment factor of 11.5. Accordingly, the CRT uses that factor to determine the 1945 value that corresponds to the payment of SF 28,874.00 to reach an amount of SF 2,510.78 (SF 28,874.00 divided by 11.5 equals SF 2,510.78). That amount is subtracted from the adjusted 1945 balance of the account (as calculated above) for a total amount of SF 5,964.22 that has yet to be restituted (SF 8,475.00, which is the total 1945 value of the account, minus SF 2,510.78, which is the 1945 value of the payment received from the Registration Office, equals SF 5,964.22, which is the 1945 value yet to be restituted). The current value of this amount is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 74,552.75.

Division of the Award

According to Article 23(2)(a) 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 Claimants submitted an inheritance certificate, indicating that the Account Owner's three daughters [REDACTED], [REDACTED 1] and [REDACTED] inherited Armand Grosz's estate in equal shares; and an inheritance certificate, indicating that [REDACTED]'s heirs were [REDACTED], [REDACTED], and [REDACTED 2].

Accordingly, Claimant [REDACTED 1] is entitled to one-half of the total award amount and Claimant [REDACTED 2] is entitled to one-half of the total award amount. As noted above, Claimant [REDACTED 2]'s brother [REDACTED] has opted out of these proceedings. Accordingly, he is not entitled to share in the 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
18 December 2008