

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2] and [REDACTED 3]

## **in re Accounts of Fritz Gutmann**

Claim Number: 400390/AZ

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Fritz Gutmann (the “Account Owner”) at the Basel 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 Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as his paternal grandfather, Friedrich (Fritz) Bernhard Eugen Gutmann, who was born on 15 November 1886 in Berlin, Germany and was married to [REDACTED], née [REDACTED], in November 1913 in Berlin. The Claimant indicated that his grandparents, who were Jewish, had two children: [REDACTED] (later [REDACTED]), the Claimant’s father, who was born in 1914 in the United Kingdom, and [REDACTED 2], the Claimant’s aunt, who was born in 1919 in the Netherlands. The Claimant further indicated that his grandfather and his family moved to the Netherlands in 1919 and that they lived in Amsterdam, the Netherlands, until 1924, and then at *Bosbeek* in Heemstede-Haarlem, the Netherlands. The Claimant stated that his grandfather, who became a Dutch citizen in 1924, was a banker, that he worked for *Proehl & Gutmann*, which was located at Herengracht 456 in Amsterdam from 1919 to 1933, when he founded *Firma F. B. Gutmann*, which he ran until 1942 and which was located on Keizersgracht in Amsterdam.

According to the Claimant, when the Netherlands was occupied by Nazi Germany, his grandfather was effectively placed under house arrest. The Claimant stated that in 1943, his grandparents received permission to emigrate to Italy via Berlin, but when they arrived in Berlin, they were detained and deported to Theresienstadt, where they perished in 1944. Finally, the Claimant indicated that his father, Bernard Gutmann, died in Venice, Italy in 1994.

In support of his claim, the Claimant submitted a certificate of inheritance issued in the Netherlands in March 2005 indicating that [REDACTED], who was born in Berlin and resided in the Netherlands, perished in Theresienstadt in 1944; that he and his wife died without wills; that they had two children, [REDACTED] and [REDACTED 2]; that [REDACTED], who also died without a will, had two children, [REDACTED 1] and [REDACTED 3]; that [REDACTED 1], [REDACTED 3], and [REDACTED 2] were [REDACTED]'s sole heirs, and that [REDACTED 1] and [REDACTED 3] were each entitled to one-fourth of [REDACTED]'s estate and that [REDACTED 2] was entitled to one-half of [REDACTED]'s estate.

The Claimant further submitted documents relating to his grandfather's art collection. His grandfather, adding to his own father's acquisitions, had built a collection, whose fame had not escaped Göring. Thus, not long after the Netherlands was occupied by Nazi Germany, important parts of the collection, which had been stored with an art dealer in Amsterdam, were sold directly to Göring's agents, other works found their way to Germany via a German art dealer; and some pieces, which had been sent to "safety" in France were found and looted there after the German invasion. Much of the collection was recovered by the Dutch authorities after the War and, after lengthy proceedings, finally was restituted to the Gutmann heirs in 2002.

The Claimant indicated that he was born on 6 February 1948 in London, England. The Claimant is representing his aunt, [REDACTED 2], who was born on 17 July 1919 in Leiden, the Netherlands, and his brother, [REDACTED 3], who was born on 18 November 1945 in London.

### **Information Available in the Bank's Records**

The Bank's records consist of a customer card and a printout from the Bank's database. According to these records, the Account Owner was Fritz Gutmann, who resided at Keizergracht 571 in Amsterdam, the Netherlands. The Bank's records indicate that the Account Owner held one demand deposit account and one custody account, both opened on 11 May 1922 and held under account number 4542. The Bank's records also indicate that the Account Owner requested that correspondence be conducted in German.

The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name matches the published name of the Account Owner. The Claimant identified the Account Owner's city of residence and the street address of his firm, which match unpublished information about the Account Owner contained in the Bank's records. The CRT notes that it is plausible that the Claimant's grandfather would have used the office address of his banking firm on his account. Finally, the CRT notes that the Claimant's grandfather's country of origin is consistent with the Account Owner's unpublished request contained in the Bank's records regarding the language that was to be used in all correspondence.

In support of his claim, the Claimant submitted documents, including inheritance documents and records relating to his family's recovery of his grandfather's art collection, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's records as the name and country of residence of the Account Owner and that his country of origin is consistent with the correspondence language indicated in the Bank's records as the primary language of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and contains deportation records and inmate lists maintained by the Nazis as well as testimony submitted by the Claimant's aunt in 1978. These records indicate that [REDACTED]'s date of birth was 15 November 1886, that his place of birth was Berlin, that he resided at *Bosbeek* in Heemstede, and that he was deported from Berlin to Theresienstadt, where he perished in 1944. This information 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.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of 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 a concentration camp. The Claimant submitted inheritance documents and records relating to the recovery of the Account Owner's art collection indicating that the Account Owner was Jewish, that his assets were looted by the Nazis, and that he perished in a concentration camp. As noted above, a person named [REDACTED] was included in the CRT's database of victims.

### 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 and documents, demonstrating that the Account Owner was the Claimant's paternal grandfather. These documents include inheritance documents and records relating to the recovery of the Account Owner's art collection, indicating that the Claimant was the Account Owner's grandchild and one of his heirs. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

#### The Issue of Who Received the Proceeds

Given that the Account Owner's art collection was looted by the Nazis or transferred to Nazi agents under duress; that the Account Owner and his spouse perished in a concentration camp; that there is no record of the payment of the Account Owner's accounts to him, nor any record of a date of closure of the accounts; 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 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 and the parties he represents. 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 grandfather and that relationship justifies 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 accounts.

#### Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. 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 ("SF") and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of one demand deposit account and one custody account is SF 15,140.00. 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 a total award amount of SF 189,250.00.

#### Division of the Award

According to Article 23(2)(a) of the Rules, if the Claimant has submitted inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries

named in the inheritance documents who have submitted a claim. In this case, the Claimant is representing his aunt and his brother. The CRT notes that the Claimant submitted a copy of the Account Owner's notarized certificate of inheritance, which indicates that represented party [REDACTED 2] is entitled to one-half of the Account Owner's estate and that the Claimant and represented party [REDACTED 3] are each entitled to one-fourth of the Account Owner's estate. Thus, represented party [REDACTED 2] is entitled to one-half of the total award amount and the Claimant and represented party [REDACTED 3] are each entitled to one-quarter of the total award amount.<sup>1</sup>

### **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  
17 November 2006

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<sup>1</sup> The CRT notes that under the general principle of distribution set forth in Article 23(1)(c) of the Rules, the division of the Award would be the same in the absence of inheritance documents.