

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Maria Victoria Altmann
also acting on behalf of Francis Gutmann
and Nelly Auersperg
represented by E. Randol Schoenberg

in re Accounts of Luise Gutmann

Claim Number: 215866/GP

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Maria Victoria Altmann, née Bloch-Bauer, (the “Claimant”) to the unpublished account of Ferdinand Bloch-Bauer.¹ This Award is to the unpublished accounts of Luise Gutmann (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 identifying the Account Owner as her sister, *Baronin* (Baroness) Luise (Louise) Gutmann, née Bloch-Bauer, who was born on 13 November 1907 in Zagreb, Yugoslavia (now Zagreb, Croatia), and was married to Baron Viktor Gutmann. In a telephone conversation with the CRT on 4 June 2004, the Claimant stated that her sister had dual residences in Vienna, Austria, and Yugoslavia. In a telephone conversation with the CRT on 17 June 2004 at the suggestion of the Claimant, the Claimant’s nephew, Francis Gutmann, who is the son of Luise Gutmann, stated that his mother, who was Jewish, fled Vienna for Yugoslavia in 1938, just before the *Anschluss* (the incorporation of Austria into the Reich)² because of the growing Nazi dominance. Francis Gutmann indicated that the Yugoslav Communists killed his father, Baron Viktor Gutmann, in 1946. Francis Gutmann stated that his mother subsequently remarried, changed her name to Luise Gattin, and left Yugoslavia for Israel in 1949. According

¹ The CRT will treat the claim to the account of Ferdinand Bloch-Bauer in a separate decision.

² The CRT notes that the *Anschluss* is usually dated 13 March 1938 although the referendum approving incorporation into the Reich, *i.e.*, the legal date of the *Anschluss*, took place on April 10, 1938.

to Francis Gutmann, his mother left Israel in 1950 and moved with her family to Canada, where she remained until her death.

The Claimant submitted the last will and testament of her uncle, Ferdinand Bloch-Bauer, which indicates that both the Claimant and Baroness Louise Gutmann were his nieces and that they shared the maiden name of Bloch-Bauer; an inheritance certificate which indicates that the Claimant was a descendant of Ferdinand Bloch-Bauer's brother, Gustav Bloch-Bauer, and that Louise Gattin, née Bloch-Bauer, formerly known as Baroness Gutmann, was born on 13 November 1907 in Zagreb and was a descendant of his brother Gustav Bloch-Bauer; a letter to the municipality of Vienna, dated 15 November 1946, which indicates that Baroness Luise Gutmann, who lived in Zagreb, was a citizen of Yugoslavia; and a letter to the local district bureau in Vienna dated 28 July 1956, indicating that Luise Gattin lived in Vancouver, Canada. The Claimant indicated that she was born on 18 February 1916 in Vienna, Austria. The Claimant is representing her niece, Nelly Auersperg, who was born on 13 December 1928 in Vienna, and her nephew, Francis Gutmann, who was born on 5 January 1934 in Vienna.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Ferdinand Bloch-Bauer, who resided in Vienna, and identifying Baroness Luise Gutmann.

Information Available in the Bank Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau (Mrs.) Baronin* (Baroness) Luise Gutmann who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one demand deposit account and one custody account. According to the Bank's record, the demand deposit account was opened on 16 January 1938, and was closed on 10 April 1938. The Bank's record further indicates that the custody account, numbered V4145, was opened on 6 January 1938 and closed on 7 April 1938.

The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or her 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 sister's name, title, city, and country of residence match the unpublished name, title, city, and country of residence of the Account Owner.

In support of her claim, the Claimant submitted documents, including the last will and testament of her uncle, Ferdinand Bloch-Bauer, which indicates that his niece was Baroness Louise Gutmann; the certificate of inheritance of Ferdinand Bloch-Bauer, which indicates that Luise

Gattin, formerly known as Baroness Gutmann, was a descendant of his brother; and a letter to the Viennese municipal authorities referring to Baroness Luise Gutmann, providing independent verification that the person who is claimed to be the Account Owner had the same name and a connection to the same city as recorded in the Bank's records as the name and city of residence of the Account Owner. The CRT notes that there are no other claims to these accounts.

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's nephew stated that the Account Owner was Jewish and fled Vienna, Austria, prior to the *Anschluss* because of the threat of Nazi persecution.

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 the Account Owner was the Claimant's sister. These documents include the Claimant's uncle's last will and testament, which indicates that both the Claimant and the Account Owner were his nieces and shared the maiden name Bloch-Bauer; and the inheritance certificate of the Claimant's uncle, which indicates that both the Claimant and the Account Owner were descendants of his brother, Gustav Bloch-Bauer.

The Issue of Who Received the Proceeds

Given that the Account Owner's accounts were closed after the *Anschluss*; that Nazi confiscatory legislation was in effect at the time the accounts were closed; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate, and register with a view to confiscation, the assets of the Jewish residents of Austria; that the Claimant maintained a residence in Vienna in 1938, which is confirmed in the Bank's records; that there is no record of the payment of the Account Owner's accounts to her; that the Account Owner fled Vienna for Zagreb, but may have had relatives remaining in Austria and that she may therefore have yielded to Nazi pressure to turn over her accounts to ensure their safety; that the Account Owner and her heirs would not have been able to obtain information about her closed accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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(ii), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that there is a sufficient probability that the account proceeds were not paid to the Account Owner or her 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 sister, and that relationship

justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”) and the average value of a demand deposit account was SF 2,140.00. The total 1945 average value of a custody account and a demand deposit 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(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 the sister of the Account Owner, and is representing Nelly Auersperg and Francis Gutmann, the daughter and son of the Account Owner, respectively. Accordingly, as the descendants of the Account Owner, Nelly Auersperg and Francis Gutmann have better entitlement than the Claimant and are each entitled to one-half 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 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
18 August 2004