

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Josip Guttman

Claim Number: 600921/LV 219677/LV¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Josef Guttman.² This Award is to the unpublished account of Josip Guttman (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).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 to the Holocaust Claims Processing Office (“HCPO”) and a Claim Form to the CRT identifying the Account Owner as her father, Josip (Jozsef, Jose, Francisco) Gutman (Gutmann), who was born on 10 October 1899 in Zabalj, Yugoslavia, and was married to [REDACTED], née [REDACTED]. The Claimant stated that her father resided in Novi Sad, Yugoslavia until 1936, and then in Belgrade, Yugoslavia until the Nazi invasion. The Claimant also stated that her father, who was Jewish, owned a grain trading business in Belgrade. The Claimant explained that in April 1941 her family fled from Belgrade to Budapest, Hungary, Italy, Spain and eventually to South America. The Claimant stated that her father passed away in Montevideo, Uruguay on 22 July 1959. The Claimant indicated that she was born on 20 August 1930 in Novi Sad.

In support of her claim the Claimant submitted her birth certificate, which identifies her parents as José and [REDACTED] Gutman, née [REDACTED], and indicates she was born in Novi Sad.

¹ The Claimant submitted a claim, numbered B-01212, on 31 August 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600921.

² The name Josef Guttman of Austria appears on the 23 July 1997 List of Non-Swiss Dormant Accounts.

The Claimant previously submitted an ATAG Ernst & Young claim form and an HCPO claim in 1998 and an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Josip Gutman.

Information Available in the Bank's Record

The Bank's record consists of a signature sample. According to this record, the Account Owner was Josip Guttmann, who resided at Dečanoka ul. 33 in Belgrade, Yugoslavia. The Bank's record indicates that the signature sample was created on 10 September 1938. The Bank's record further indicates that the account was numbered 1099, but it does not indicate the account's type. The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account.

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 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.

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 two claims of the Claimant in one proceeding.

Identification of the Account Owner

The Claimant's father's name substantially matches the unpublished name of the Account Owner, and the Claimant's father's city and country of residence match the unpublished city and country of residence of the Account Owner. The CRT notes that the Claimant indicated that her father's name was spelled Gutman or Gutmann, and that the Bank's records indicate that the Account Owner's name was spelled Guttmann. The CRT does not find this spelling discrepancy to affect the Claimant's identification of the Account Owner.

In support of her claim, the Claimant submitted her own birth certificate, which identifies her parents as José and [REDACTED] Gutman, née [REDACTED] and indicates she was born in Novi Sad, Yugoslavia, providing independent verification that the person who is claimed to be the Account Owner had substantially the same name and resided in the same country recorded in the Bank's record as the name and country of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Josip Francisco Gutman, and indicates that his date of birth was 8 October 1899 and place of birth was Zabalj, Yugoslavia, which match 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 this account was disconfirmed because those claimants provided a city, country of residence or signature sample than the city, country of residence and signature sample of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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 fled Yugoslavia to South America. As noted above, a person named Josip Gutman was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting her own birth certificate, which identifies her parents as José and [REDACTED] Gutman, née [REDACTED] and indicates that she was born in Novi Sad, Yugoslavia. There is no information to indicate that the Account Owner has other surviving heirs.³

The Issue of Who Received the Proceeds

Given that in 1941 the Account Owner fled from Yugoslavia to South America; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his account 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 (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 Owner 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

³ The Claimant indicated on her ATAG Ernst & Young claim form that her brother, [REDACTED], did not wish to claim an account belonging to Josip Gutman.

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 account.

Amount of the Award

In this case, the Account Owner held an account of unknown type and unknown value. 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 an account of unknown type was 3,950.00 Swiss Francs ("SF"). 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 49,375.00 SF.

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
21 September 2005

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