

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3],
[REDACTED 4], and [REDACTED 5]
represented by Uwe Radack

in re Accounts of Stefanie Guttmann

Claim Number: 501406/AK¹

Award Amount: 204,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], formerly [REDACTED], (the “Claimant”) to the published accounts of Stefanie Guttmann (the “Account Owner”) at 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 aunt, Dr. Stefanie Brach, née Guttmann, who was born on 13 September 1892 in Vienna, Austria, as the daughter of [REDACTED] and [REDACTED], née [REDACTED]. The Claimant stated that his father, [REDACTED], who was born on 24 March 1891 in Vienna, was his aunt’s only sibling. In a telephone conversation with the CRT on 2 May 2005, the Claimant indicated that his father may have been born in Prague, Austria-Hungary (today the Czech Republic). The Claimant further stated that his aunt, who was Jewish, was a medical doctor, and that she both lived and worked at Volksgartenstrasse 5, in Vienna I. The Claimant stated that his aunt was married to [REDACTED], but did not specify when they were married. The Claimant also indicated that his aunt owned a house at Krausstrasse 47 in Zurich, Switzerland. Moreover, the Claimant stated that, after Austria was incorporated into the Reich in March 1938 (the “Anschluss”), Nazi authorities forced his aunt to sell her property, and she was no longer permitted to practice medicine. The Claimant indicated that his aunt fled Austria for New York, New York, the United States, in December 1938, and that she lived there until her death on 17 August 1967.

¹ Claimant [REDACTED 1] submitted additional claims in 2005, which are registered under the Claim Numbers 401720 and 401722. The CRT will treat these claims in separate determinations.

The Claimant also indicated that he fled Austria together with his parents in May 1939, when he was eight years old.

In support of his claim, the Claimant [REDACTED 1] submitted a letter from the Vienna City and State Archive (*Wiener Stadt- und Landesarchiv*), dated 7 October 2003, confirming that the birth registry of the Jewish Community of Vienna indicated that Dr. Stefanie Guttmann was born on 13 September 1892; that [REDACTED] was born on 24 March 1891 in Vienna to [REDACTED] and [REDACTED]; that [REDACTED] was married to [REDACTED], née [REDACTED], in Vienna; and that they had three children: [REDACTED], [REDACTED 2], and [REDACTED 1], who were born in Vienna, on 8 May 1924, 3 February 1921, and 13 July 1931, respectively. This document also indicates that the archival records state that [REDACTED 1] and his mother left Vienna in May 1939, for an unknown destination. The Claimant also submitted documents obtained from the Austrian State Archive, which are described in detail below.

The Claimant [REDACTED 1] indicated that he was born on 13 July 1931 in Vienna. The Claimant is representing his brother, [REDACTED 2] (formerly [REDACTED]), who was born on 3 February 1921 in Vienna, and his brother-in-law, [REDACTED 3], who was born on 11 May 1921 in Prague, and who was married to the Claimant's sister, [REDACTED], née [REDACTED], who passed away on 5 October 1979. The Claimant is also representing [REDACTED] and [REDACTED 3]' daughters, [REDACTED 4], née [REDACTED], and [REDACTED 5].

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frl.* (Miss) Stefanie Guttmann, who originally resided in Schluckenau (today Sluknov, Czech Republic); later in Vienna; in Offenhausen, Austria; and in a town in the Steiermark region of Austria. The name of the town in Steiermark is not legible, and the place of residence "Vienna" is underlined. The Bank's record also indicates that the Account Owner was originally referred to as *Frau* (Mrs.) *Dr.*, but that title was crossed out and replaced by the designation *Frl.* The Bank's record further indicates that the Account Owner held one safe deposit box, numbered 6561, which was rented on 27 February 1937 and closed on 4 June 1938; one custody account, numbered 44495, which was opened on 31 July 1931 and closed on 23 August 1938; and one demand deposit account, which was closed on 10 May 1939. The Bank's record does not indicate the value of the accounts. There is no evidence in the Bank's record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of

Dr. med. Stefanie Guttmann, numbered 06604. These records indicate that Stefanie Guttmann was born on 13 September 1892, and that she was not married at the time her 1938 Census declaration was filed. They further indicate that she was a medical doctor, and that she resided at Volksgartenstrasse 5 in Vienna I. The records include a letter from Stefanie Guttmann to the Nazi authorities, in which she identifies [REDACTED] as her brother. The records also indicate that Stefanie Guttmann owned real estate in Berlin, Germany, and in Vienna, and that most of the property had been aryanized by December 1938. Additionally, the records show that Stefanie Guttmann owned a house in Zurich, which was located at Klausstrasse 47, and which was still in her possession on 14 December 1938. The records contain a notation, dated 24 January 1939, indicating that Stefanie Guttmann had emigrated to the United States. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's aunt's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence and her professional title, which matches unpublished information about the Account Owner contained in the Bank's record. Moreover, the Claimant indicated that "Guttmann" was his aunt's maiden name, which is consistent with the unpublished indication in the Bank's record that the Account Owner used the title of *Frl.* The CRT notes that the Bank's record specifies places of residence other than Vienna for the Account Owner, and that the Claimant was unable to identify these other places of residence. However, the CRT further notes that the Claimant fled Austria as a young child, making it unlikely that he would possess extensive information regarding his extended family, including his aunt, and determines that this does not undermine the plausibility of the identification.

In support of his claim, the Claimant submitted documents, including an official document from the *Wiener Stadt- und Landesarchiv*, indicating that Dr. Stefanie Guttmann resided in Vienna, providing independent verification that the person who is claimed to be the Account Owner had the same name, title, and resided in the same city recorded in the Bank's records as the name, title, and city of residence of the Account Owner. The CRT notes that the name Stefanie Guttmann appears only once 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 CRT further notes that the other claims to these accounts were disconfirmed because those claimants provided a different professional title than the professional title of the Account Owner, or because those claimants indicated that "Guttmann" was their relative's married, not maiden, name.

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, that she lived in Austria

after the *Anschluss*, that her property was taken from her, and that she fled to the United States in December 1938. The CRT notes that the 1938 Census declaration submitted by the Account Owner demonstrate that she resided in Austria after the *Anschluss*, and that her property was aryanized.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's paternal aunt.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that the Claimant submitted a confirmation from the *Wiener Stadt- und Landesarchiv*, identifying the Claimant as the son of [REDACTED],² and indicating that his family resided in Vienna, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Vienna. Moreover, the CRT notes that the Claimant provided biographical information regarding Stefanie Guttmann that is consistent with the information in the 1938 Census declaration submitted by Stefanie Guttmann, and that this declaration identifies Stefanie Guttmann's brother as [REDACTED]. 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 Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. 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

With respect to the safe deposit box and custody accounts, the CRT notes that they were closed after the *Anschluss* in June and August of 1938, respectively, and when the Account Owner was residing in Vienna. Given that the Account Owner would not have been able to repatriate her accounts to the Reich without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owner's accounts to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 (a), (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

² The CRT notes that the Claimant submitted a copy of his New York State Driver License, identifying him as "[REDACTED 1]," who was born on 13 July 1931. The CRT further notes that the Claimant indicated that he was formerly named "[REDACTED]," but that he provided no documentation certifying that his name was changed. However, given that, as noted above, the Vienna archive confirmed that a "[REDACTED]" was born in Vienna on 13 July 1931, the CRT determines that the Claimant has plausibly demonstrated that his last name was formerly "[REDACTED]." Therefore, the document from the Vienna archive also establishes that the Claimant was the son of [REDACTED].

Owner or her heirs.

With respect to the demand deposit account, the CRT notes that the account was closed in May 1939, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the demand deposit account was closed, that the Account Owner fled her country of origin due to Nazi persecution, that the Account Owner had relatives remaining in her country of origin and that she may therefore have yielded to Nazi pressure to turn over her account to ensure their safety, that, as noted above, the Account Owner and her heirs would not have been able to obtain information about her 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 (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the proceeds of the demand deposit account 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 his aunt, 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 accounts. The CRT notes that the Claimant and his brother, [REDACTED 2], as the Account Owner's nephews, and [REDACTED 4], and [REDACTED 5], as the Account Owner's grand-nieces, have a better entitlement to the accounts than [REDACTED 3], who was related to the Account Owner by marriage to her niece, [REDACTED].

Amount of the Award

In this case, the Account Owner held one safe deposit box, one custody account, and one demand deposit 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 ICEP, in 1945 the average value of a safe deposit box was 1,240.00 Swiss Francs ("SF"), the average value of a custody account was SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00. The total of these three amounts is SF 16,380.00. The current values 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 204,750.00 for all three accounts.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother, [REDACTED 2], and [REDACTED 4] and [REDACTED 5], the daughters of the Claimant's sister, [REDACTED]. Accordingly, the Claimant and [REDACTED 2] are each entitled to one-third of the total award amount, and [REDACTED 4] and [REDACTED 5] are each entitled to one-sixth of the total award amount. As noted above, [REDACTED 3] is not entitled to any portion of the 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 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
31 December 2005