

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award upon Request for Reconsideration

to Claimant [REDACTED]
represented by Erez Bernstein

in re Account of Adolf Gumprich

Claim Number: 501874/WT
Appeal Number: 3399

Award Amount: 162,500.00 Swiss Francs

This Certified Award upon Request for Reconsideration is based on the claim of [REDACTED] (the “Claimant”) to the published account of Adolf Gumprich (the “Account Owner”), over which Ella Gumprich held power of attorney (the “Power of Attorney Holder”) at the Zurich 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.

Procedural History

On 17 December 2010, the Court approved a Denial decision to the Claimant, based on the CRT’s determination that the Claimant had not plausibly demonstrated that he was related to the Account Owner (the “December 2010 Denial”).

In a letter dated 17 January 2011, the Claimant requested reconsideration of the December 2010 Denial and submitted additional information and documents, as further described below.

This decision addresses the documents submitted by the Claimant in his claim and request for reconsideration.

The December 2010 Denial

In the December 2010 Denial, the CRT determined that the Claimant plausibly identified the Account Owner, and that the Account Owner was a Victim of Nazi Persecution. However, the CRT noted that the Claimant had not submitted any documentation that showed that the Claimant was related to the Account Owner and that the Claimant was therefore entitled to the

Account Owner's account. Specifically, the Claimant submitted documents that indicated that the Account Owner had a cousin named [REDACTED], who the Claimant claimed was his own father. However, the Claimant submitted documentation that his own father had used the name [REDACTED], and provided no evidence that his father had ever used the name [REDACTED]. Furthermore, the CRT conducted additional research and located a different family tree pertaining to the Hortner-Gumprich family from Krakow, Poland.¹ The CRT noted that this family tree did not establish a relationship between the Account Owner and the Claimant's family.² Given these considerations, the CRT concluded that the Claimant had not demonstrated that his father was related to the Account Owner. Accordingly, the CRT determined that no award was appropriate.

Information Provided by the Claimant in his Claim Form and Request for Reconsideration

As detailed in the December 2010 Denial, the Claimant submitted a Claim Form in which he identified the Account Owner as his father's cousin, Abraham (Adolf) Gumprich (Hortner), who was born on 2 December 1882 in Podgorze, Poland, to [REDACTED] and [REDACTED]. The Claimant further identified the Power of Attorney Holder as Ella Gumprich, née Gottlieb, who was the second wife of [REDACTED] (Hortner), whom he married in 1913 in Krakow, Poland, and with whom he had a daughter, [REDACTED].

The Claimant stated that his father, [REDACTED], was born on 4 November 1883 in Krakow to [REDACTED] and [REDACTED], and that [REDACTED] was also known as [REDACTED]. The Claimant indicated that his own paternal grandfather, [REDACTED], and [REDACTED]'s father, [REDACTED], who were siblings, were the children of [REDACTED] and [REDACTED].

The Claimant indicated that Abraham (Adolf) Gumprich, who was Jewish, was a lawyer who held the title of doctor of law, that his office was located at Grodzka 13 in Krakow, that he may have resided at Straszkiego 6 in Krakow during the Second World War, and that he perished in Buchara, the Union of Soviet Socialist Republics (today Uzbekistan) in 1944.

In support of his claim, the Claimant submitted documents, including:

- 1) the Claimant's own birth certificate, which indicates that [REDACTED] was born on 27 June 1930 in Vienna, Austria, to [REDACTED] and [REDACTED];
- 2) the Claimant's change of name certificate, which indicates that in 1956 [REDACTED] changed his name to [REDACTED];
- 3) Pages of Testimony submitted by the Claimant to the Yad Vashem Memorial, which indicates that the Claimant's father, [REDACTED] was born on 4 November 1883 in Krakow to [REDACTED] and [REDACTED], that he was married to [REDACTED], and that he resided in Vienna, before being deported to Riga, Latvia, where he perished in 1942;

¹ <http://www.shoreshim.org/en/trees/treesDisplay.asp?ID=I06980>.

² <http://www.shoreshim.org/en/trees/treesDisplay.asp?ID=I14517>.

- 4) a family tree, which indicates that [REDACTED], who was born on 4 November 1883 to [REDACTED] and [REDACTED], was the cousin of [REDACTED]-[REDACTED]. This family tree also indicates that [REDACTED]- [REDACTED] was born on 2 December 1882 in Podgorze to [REDACTED] and [REDACTED], that he was married to [REDACTED], and that he had a brother, [REDACTED];³ and
- 5) excerpts from a genealogy website regarding the Jewish communities of Krakow, which indicate that Adolf (Abraham) Gumprich and [REDACTED] had a daughter named [REDACTED], that Adolf Gumprich held the title of doctor of law, that he worked at Grodzka 13 in Krakow, and that Dr. Adolf and [REDACTED] Gumprich resided at Straszewkiego 6 in Krakow.⁴ The CRT notes that this website contains a notice stating that data for family trees were submitted by several individuals, and that the website does not check, corroborate, or correct any errors that may exist.

In support of his Request for Reconsideration, the Claimant submitted documents, including:

- 1) an excerpt from a genealogy website regarding the Jewish communities of Krakow, which indicates that [REDACTED] was born in 1883 in Krakow;⁵
- 2) an extract from a registry of Jewish births in Krakow in 1845, indicating that [REDACTED] was the son of [REDACTED] and [REDACTED];
- 3) an extract from a registry of Jewish births in Krakow in 1849, indicating that Izaak [REDACTED] was the son of [REDACTED] and [REDACTED]; and
- 4) an extract from a registry of Jewish births in Krakow in 1883, indicating that [REDACTED] was born on 4 November 1883 in Krakow to [REDACTED] and [REDACTED].

The Claimant indicated that he was born on 27 June 1930 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a Power of Attorney form, dated 20 November 1930. According to this form, the Account Owner was *Advokat* (Attorney) Dr. Adolf Gumprich who resided at Ul. Grodzka 13, Krakow, Poland, and the Power of Attorney Holder was his wife, *Frau* (Mrs.) Ella Gumprich, who resided at the same address. The Bank's record indicates that the Account Owner held a custody account.⁶

³ <http://www.ics.uci.edu/~dan/genealogy/Krakow/Families/Hortner.html> (last viewed on 16 February 2011, at which time the information on the site indicated that the site was last modified 16 January 2011). The information on this website indicates that it was created by Dan S. Hirschberg, Professor of Computer Sciences and EECS at the University of California, Irvine, California.

⁴ <http://www.shoreshim.org/en/default.asp>. The Claimant's representative provided a printout that he stated originated from this website. However, the CRT notes that the information in the website is available to members only.

⁵ <http://www.jri-poland.org/index.htm> (last viewed on 16 February 2011).

⁶ The Bank's record contains a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account

The Bank's record does not show when the account at issue was closed, 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 the instructions of the Independent Committee of Independent 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. There is no evidence that the Account Owner, the Power of Attorney Holder, or their heirs closed the account 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 father's cousin's name, city and country of residence match the published name, city and country of residence of the Account Owner, and the Claimant's father's cousin's wife's name matches the published name of the Power of Attorney Holder. The Claimant identified the Account Owner's professional title and street address, which matches unpublished information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted excerpts from genealogy websites regarding the Jewish communities of Krakow and a family tree, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that the other claim to this account was disconfirmed because that claimant could not provide any details about the Account Owner and did not identify the Power of Attorney Holder.

Status of the Account Owner as a Victim of Nazi Persecution

As noted in the December 2010 Denial, the Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant submitted information which shows that the Account Owner was Jewish, that he resided in Nazi-occupied Poland, and that he perished in Buchara in 1944.

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 and documents, indicating that the Account Owner was the Claimant's father's cousin.

The CRT notes that, with his Request for Reconsideration, the Claimant submitted an extract from a registry of Jewish births in Krakow in 1883, indicating that [REDACTED] was born on 4 November 1883 in Krakow to [REDACTED] and [REDACTED]; an extract from a registry of

Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

Jewish births in Krakow in 1845, indicating that [REDACTED] was the son of [REDACTED] and [REDACTED]; an extract from a registry of Jewish births in Krakow in 1849, indicating that [REDACTED] was the son of [REDACTED] and [REDACTED]. These documents provide evidence that the Claimant's father was also known as [REDACTED], and that the Claimant's paternal grandfather was the brother of Abraham (Adolf) Gumprich's father. Therefore, these documents show that the Claimant's father was the Account Owner's cousin.

The CRT notes that the Account Owner may have other surviving relatives, but that because they are not represented in the Claimant's claim, and have not submitted claims of their own, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in the Holocaust; that there is no record of payment of the Account Owner's account to him or the Power of Attorney Holder, nor any record of a date of closure of the account; that the Account Owner's 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 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, the Power of Attorney Holder, or their 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 father's cousin and that the Power of Attorney Holder was his father's cousin's wife, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held 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 accounts being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF").⁷ The current value of this amount is calculated by multiplying

⁷ The CRT notes that, in an Order dated 16 June 2010, the Court amended Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), which establishes value presumptions for accounts with unknown or low values. Full information regarding the methodology and procedure used to determine the revised Article 29 presumptive values is available at www.swissbankclaims.com. The CRT notes that any adjustment for

by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 162,500.00.

Certification of the Award upon Request for Reconsideration

The CRT certifies this Award upon Request for Reconsideration for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
24 March 2011

accounts awarded at the previous presumptive value amounts, such as the one described herein, will be addressed to the Claimant separately.