

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by [REDACTED]

in re Account of *Alfred Schwarz*

Claim Number: 217429/AY¹

Award Amount: 6,317.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the "Claimant") to the account of Camilla Guttmann. This Award is to the account of *Alfred Schwarz* (the "Account Owner"), which was a business owned by Camilla Guttmann, 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.

Information Provided by the Claimant

The Claimant submitted a Claim Form in which she stated that her aunt by marriage, Camilla Guttmann, who was born in approximately 1870 and was married to [REDACTED], the Claimant's maternal uncle, had a Swiss bank account to which she is entitled. The Claimant indicated that her aunt, who was Jewish, had no children. The Claimant stated that her aunt resided in Vienna, Austria, at Grabnergasse 9. According to the Claimant, her relatives were wealthy and the Claimant's uncle owned the building in which he and his spouse lived. The Claimant explained that her aunt and uncle had businesses in Austria and Czechoslovakia, and that the Nazis confiscated her relatives' assets. The Claimant stated that in 1938 or 1939, her aunt committed suicide after Nazis forced her to strip in the street in Vienna, and that her uncle died on a boat in route to Cuba in late 1939.

In support of her claim, the Claimant submitted a letter from [REDACTED] to the Claimant's husband, on his letterhead, bearing the signature of [REDACTED], and concluding with the words, "Yours, Aunt Camilla and Uncle [REDACTED]." The Claimant indicated that she was born in Vienna on 25 September 1908. The Claimant

¹ The Claimant submitted additional claims to the accounts of [REDACTED] and [REDACTED], which are registered under the Claim Numbers 217425 and 217426, respectively. The CRT will treat the claims to these accounts in separate decisions.

previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED] and/or Camilla Guttmann from Vienna, Austria.

Information Available in the Bank's Records

The CRT notes that 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 report any account belonging to *Alfred Schwarz*.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Camilla Guttmann, née [REDACTED], numbered 1184, and [REDACTED], numbered 1183. These documents indicate that Camilla Guttmann was a businesswoman, that she was born on 2 May 1875, and that she was married to [REDACTED], who was born on 15 June 1871. According to these documents, [REDACTED] and Camilla Guttmann resided in Vienna at Grabnergasse 12-14. These documents further show that Camilla Guttmann owned a company named *Alfred Schwarz*, which was located in Vienna at Grabnergasse, which held an account at the Bank, and which was Aryanized by the Nazis. The amount in the account as of 20 April 1938 was 505.40 Swiss Francs. Further, these records show that Camilla Guttmann owned assets totaling 265,814.00 *Reichsmarks* as of 27 April 1938 and that [REDACTED] owned assets totaling 19,419.00 *Reichsmarks* as of 28 June 1938. The records state further that Camilla and [REDACTED] were assessed a provisional "flight tax" (*Reichsfluchtsteuer*) on 10 June 1939 in the amount of 79,900.00 *Reichsmarks*. These records make no mention of additional 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 Austrian State Archives indicate that the account at issue was registered to a company named *Alfred Schwarz*, which was owned by Camilla Guttmann, the Claimant's aunt. The Claimant's aunt's name and street of residence match the unpublished name and street of residence of the Account Owner contained in the Austrian State Archives. The Claimant indicated that her aunt was married to [REDACTED], which matches unpublished information about the Account Owner contained in the Austrian State Archives. Furthermore, the Claimant stated that her aunt and uncle ran businesses in Austria and Czechoslovakia. In support

of her claim, the Claimant submitted a letter from [REDACTED] to the Claimant's husband, on his letterhead, bearing a signature that is identical to [REDACTED]'s signature in the Austrian State Archives, and concluding with the words, "Yours, Aunt Camilla and Uncle [REDACTED]."

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Camilla Guttmann, and indicates that she resided in Vienna, Austria, which 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 Claimant filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED] and/or Camilla Guttmann from Vienna, Austria, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the 'ICEP List'). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT also notes that there are no other claims to this account. 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 owner of the Account Owner was a Victim of Nazi Persecution. The Claimant stated that her aunt was Jewish, that she resided in Nazi Austria, that her assets were confiscated by the Nazis, and that she committed suicide after she was publicly humiliated by the Nazis in the streets of Vienna in 1938 or 1939. As noted above, a person named Camilla Guttmann was included in the CRT's database of victims. The Claimant also stated that the Account Owner's husband died during his flight from Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the owner of the Account Owner, by providing specific biographical information and documents which demonstrate that the owner of *Alfred Schwarz* was her aunt. These documents include a letter from [REDACTED] to the Claimant's husband, on his letterhead, concluding with the words, "Yours, Aunt Camilla and Uncle [REDACTED]," with a signature identical to [REDACTED]'s signature in the Austrian State Archives. The Claimant also identified unpublished information about the owners of the Account Owner as contained in the Austrian State Archives, and the Claimant previously submitted an Initial Questionnaire

with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by [REDACTED] and/or Camilla Guttmann from Vienna, Austria. 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 she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled Banks. Given that the CRT's precedent indicates that it is plausible in such situations that the accounts proceeds were paid to the Nazis; that the Austrian State Archives state that the account was aryanised by the Nazis; that the Account Owner committed suicide in 1938 or 1939, and her husband died in route to Cuba; that there is no record of the payment of the Account Owner's account to the owners of the Account Owner; that the Account Owner's heirs would not have been able to obtain information about the 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 inquires by account owners because of the Banks' concern regarding double liability; and 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 accounts proceeds in this case were not paid to the Account Owners 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 owner of the Account Owner was her aunt, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the owner of 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 account of unknown type. The Austrian State Archives records indicate that the value of the account at issue was 505.40 Swiss Francs as of 20 April 1938. The current value of the amount of the award is determined by

multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is 6,317.50 Swiss Francs.²

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
31 December 2003

² In this case, the CRT has based the award on the actual value of the account because Camilla Guttman reported the balance of the account in the Austrian census records based on the books of her company, and the CRT therefore concludes that this was the actual value of the account.