

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Gertrude Fisher¹
represented by [REDACTED]

in re Account of Gertrude Fischer

Claim Number: 753036/TC²

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of Gertrude Fisher, née Goldschmidt (the “Claimant”) to the account of [REDACTED].^{3,4} This Award is to the published account of Gertrude Fischer (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 an ATAG Ernst & Young claim form (“ATAG Form”) identifying the Account Owner as herself, Gertrude Fisher, née Goldschmidt. The Claimant indicated that she was born on 24 December 1894 in Vienna, Austria, and that she was married to [REDACTED]. According to information provided by the Claimant, she and her brother, [REDACTED], were

¹ [REDACTED], the granddaughter of Gertrude Fisher (“the Claimant”), informed the CRT in a telephone conversation on 4 July 2005 that her grandmother passed away on 4 December 2002 and subsequently provided the CRT with a copy of her grandmother’s death certificate and will, indicating that she was the executor of her grandmother's estate.

² The Claimant did not submit a CRT Claim Form. However, in 1998 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-NYC-D-70-916-030-440, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 753036.

³ The CRT will treat the claim to [REDACTED] in a separate decision.

⁴ In a separate decision, the CRT awarded the account of Emil Goldschmidt to the Estate of the Claimant. See *In re Account of Emil Goldschmidt* (approved 30 November 2005).

the children of [REDACTED] and [REDACTED]. In a telephone conversation with the CRT, [REDACTED], the Claimant's granddaughter and representative, indicated that her grandmother, who was Jewish, resided in Vienna before the Second World War. The Claimant's granddaughter indicated that the Claimant's parents both perished in the Holocaust, and that the Claimant and her daughter fled from Austria to England in 1939 to escape Nazi persecution. The Claimant indicated that her brother, [REDACTED], died in 1963.

In support of her claim, the Claimant provided a copy of her brother's obituary, dated in 1963, indicating that [REDACTED] was survived by his sister, Trude Fisher, and his brother-in-law, [REDACTED]. The Claimant's granddaughter also submitted her grandmother's and mother's wills and death certificates, indicating that Gertrude Fisher was married to [REDACTED] and lived in Vienna prior to the Second World War. The Claimant indicated that she was born on 24 December 1894 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Gertrude Fischer, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one safe deposit box, numbered 1879. The Bank's record indicates that the account was closed on 2 July 1938. The value of the contents of the safe deposit box on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the safe deposit box and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's name and country of residence match the published name and country of residence of the Account Owner.⁵ The Claimant also identified the Account Owner's city of residence, which matches unpublished information contained in the Bank's record. The Claimant's granddaughter submitted the death certificates and wills of the Claimant and her daughter, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

The CRT notes that the Claimant filed an ATAG Form in 1998, asserting her entitlement to a Swiss bank account owned by her brother, 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 her name, but rather on a relationship that was known to her before the publication of the ICEP List.

⁵ The CRT notes that the Claimant's surname, Fisher, is spelled differently from the surname of the Account Owner. However, the CRT notes that Fischer and Fisher are variations of the same name, and further notes that Claimant may have changed the spelling of her name after fleeing to England.

It also indicates that the Claimant had reason to believe that she and her relatives owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT 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 Account Owner was a Victim of Nazi Persecution. The Claimant's granddaughter stated that the Account Owner was Jewish, and that she fled to England in 1939 to escape Nazi persecution in Austria, and that the Account Owner's parents perished in the Holocaust.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is the Account Owner by submitting specific information and documents, including the Claimant's identity card and death certificate. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi-controlled Austria until she fled to England in 1939; that the account was closed on 2 July 1938, after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"), that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her 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 (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 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 she is the Account Owner, which 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 safe deposit box. 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 safe deposit box was 1,240.00 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 SF 15,500.00.

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
9 November 2006