

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of *Gallus & Wolf*

Claim Number: 204886/HS

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the unpublished account of *Gallus & Wolf* (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Custodian”).¹

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 custodian have been redacted.

¹ The CRT notes that it has jurisdiction over accounts at [REDACTED] (the “Custodian”), under the Settlement Agreement reached by the parties to the Holocaust Victim Assets Litigation (the “Settlement Agreement”), even though the Custodian is not a bank and was not included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution. According to the Settlement Agreement, “Deposited Assets means (1) any and all Assets actually or allegedly deposited . . . with *any custodian, including, without limitation, a bank, branch or agency of a bank, other banking organization or custodial institution or investment fund established or operated by a bank incorporated, headquartered or based in Switzerland at any time (including, without limitation, the affiliates, subsidiaries, branches, agencies, or offices of such banks, branches, agencies, custodial institutions, and investment funds that are or were located either inside or outside Switzerland at any time) in any kind of account* (including, without limitation, a safe deposit box or securities account) prior to May 9, 1945, that belonged to a Victim or Target of Nazi Persecution . . . and/or (2) *any and all Assets that the ICEP or the Claims Resolution Tribunal determines should be paid to a particular claimant or to the Settlement Fund because the Asset definitely or possibly belonged to an individual [or business entity] . . . actually persecuted by the Nazi Regime or targeted for persecution by the Nazi Regime for any reason.*” [emphasis added] In re Holocaust Victim Asset Litigation, 105 F. Supp. 2d 139 (E.D.N.Y. 2000), Exhibit I to Plan of Allocation, Class Action Settlement Agreement (26 January 1999), 2-3, text available at <http://www.swissbankclaims.com/PDFs_Eng/exhibit1toPlanofAllocation.pdf>.

Furthermore, although it was not a party to the Holocaust Victim Assets Litigation, the Custodian is among the parties whose liability is released by the Settlement Agreement, since “Releasees means the Settling Defendants; the Swiss National Bank; Other Swiss Banks; the Swiss Bankers Association; the Swiss Confederation (including, without limitation, the Cantons and *all other political subdivisions and governmental instrumentalities in Switzerland*); *all business concerns (whether organized as corporations or otherwise) headquartered, organized, or incorporated in Switzerland as of October 3, 1996 . . .*” [emphasis added] *Id.* at 3. Additionally, the CRT has previously awarded an account held at a Swiss bank which was not included in the ICEP Investigation and was not among the Settling Defendants (*in re Account of Martin Frank*, approved 10 September 2004).

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as *Gallus & Wolf*, a manufacturer and exporter of metal and glass products, located in Prague-Karlin, Czechoslovakia, that was owned by his father, [REDACTED]. The Claimant stated that his father, who was Jewish, was born on 7 May 1880 in Kostelni Lhota, Czechoslovakia, that he was married to the Claimant's mother, [REDACTED], née [REDACTED], in 1921 in Prague, and that the Claimant is their only child. The Claimant further stated that his father resided in Zurich before and immediately after the First World War and that he traveled extensively in Switzerland. The Claimant indicated that his father's company had traded under the name *Gallus & Wolf* since 1922 and that it had branches in Berlin and a permanent agency in Zurich, where the company also held an account, numbered "VIII/11111", with the Custodian. The Claimant indicated that after the Nazi occupation of Czechoslovakia, his father's company was "aryanized." The Claimant further indicated that on 12 February 1942 his father was deported to Theresienstadt and on 13 June 1942 to a camp in Poland, where he is presumed to have perished sometime on or before 31 December 1945. The Claimant also indicated that his mother died in Poland on the same date. Finally, the Claimant added that *Gallus & Wolf* was taken over by the Czech communist authorities in 1946.

The Claimant submitted his father's birth certificate, dated in 1880 in Prague, indicating his father's name and Czech origin; the Claimant's own birth certificate, dated in 1921 in Prague, indicating that his father was [REDACTED]; a document from the Jewish Community of Bohemia and Moravia, dated in 1947 in Prague, indicating that [REDACTED], who formerly resided in Prague, was deported to Theresienstadt on 12 February 1942, that he was transported from there to Poland on 13 June 1942, and that he never returned; a declaration from the district court in Bremen, Germany, indicating that the Claimant's father had been deported to the Majdanek concentration camp near Lublin, Poland, and that his date of death would be determined to be 31 December 1945; and a document, dated in 1985, related to restitution from the city of Bremen, recognizing the Claimant as the heir of [REDACTED].

The Claimant also submitted documents pertaining to *Gallus & Wolf*, including: a letter, dated 25 March 1939 in Prague and written on the letterhead of *Gallus & Wolf*, which states that [REDACTED] would be traveling to the United Kingdom, Holland, and France, as the company's authorized agent, and bearing a stamp of authenticity from the "Chamber of Commerce and Industry" in Prague; an excerpt from the company register of the Prague district court, indicating that [REDACTED] was the owner of *Gallus & Wolf* from 1922 until 6 February 1941, when the company was placed under the control of fiduciary "Mr. Ing. Viktor Tangl," in accordance with the Decree of 21 June 1939 on Jewish Assets issued by the German Reich's Protectorate of Bohemia and Moravia. Also, according to the register, on 17 June 1942, [REDACTED] was listed as the owner of the company and [REDACTED]'s name was deleted. The register further indicates that *Gallus & Wolf* was deleted from the register on 3 December 1952.

The Claimant submitted several copies of the letterhead of *Gallus & Wolf*, including the 25 March 1939 letter mentioned above, which indicate that [REDACTED] was the company's proprietor and that the company held an account at a bank in Prague, as well as "*Chèques*

postaux Suisse No. VIII/11111 Zurich.” The CRT notes that, in a letter, dated 23 June 2003, the CRT informed the Claimant that “*Chèques postaux Suisse No. VIII/11111 Zurich*” did not refer to a bank account in Zurich, but rather to a Swiss postal address.

However, in a letter to the CRT, dated 12 January 2004, the Claimant stated that he had inquired with the Custodian and had been informed that “*Chèques postaux Suisse No. VIII/11111 Zurich*” in fact referred to an account. The Claimant submitted copies of: 1) a letter he wrote to the Custodian in Dietikon, Switzerland, dated 5 November 2003, enclosing a copy of *Gallus & Wolf*’s letterhead, and inquiring about the meaning of “*Chèques postaux Suisse No. VIII/11111 Zurich*” (“*Ich ersuche Sie höfl. um eine Aufklärung was diese Nummer bedeutet?*”); and 2) the Custodian’s reply, dated 10 December 2003 in Netstal, Switzerland, in which the Custodian stated that the number “80-11111-7” belongs to another owner (“*Die Nummer 80-11111-7 gehört einem anderen Inhaber*”), and that the Custodian did not hold any accounts belonging to [REDACTED] or *Gallus & Wolf*.² However, in this letter, the Custodian further stated that it does not possess any records of accounts existing between 1930 and 1939, and that it is not obliged to keep records for more than ten years.

The Claimant indicated that he was born on 24 January 1921 in Prague and that he is the only member of his family to have survived the Holocaust.

The Claimant previously submitted an ATAG Ernst & Young form in 1998 and an Initial Questionnaire with the Court in 1999 asserting his entitlement to a Swiss account owned by *Gallus & Wolf*.

Information Available in the Custodian’s Records

The CRT notes that the Custodian was not included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution. The existence of an account of unknown type is evidenced by the materials submitted by the Claimant, including the Account Owner’s letterhead and the correspondence between the Custodian and the Claimant.

² In a telephone conversation with the CRT on 11 October 2004, the Claimant stated that he had been informed by the Custodian that the information appearing on the *Gallus & Wolf* letterhead “*Chèques postaux Suisse No. VIII/11111 Zurich*” was the same as “80-11111-7”, since the Roman numeral XIII had been changed to 80, and the number 7 indicates that the account is located in Zurich. Therefore, considering that the Claimant indicated that he specifically inquired about the information appearing on *Gallus & Wolf*’s letterhead, and submitted to the CRT a copy of the letter he sent to the Custodian along with the Custodian’s reply, the CRT determines that the difference between “XIII/11111 Zurich” and “80-11111-7” is not substantial.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owner. The Claimant's father's business name and location match the unpublished name and city of the Account Owner. The Claimant submitted copies of *Gallus & Wolf's* letterhead indicating “*Chèques postaux Suisse No. VIII/11111 Zurich*” and the Custodian's reply indicating that “80-11111-7” is an account number. Additionally, the Claimant submitted a letter written on the letterhead of *Gallus & Wolf*, and an excerpt from the company register of the Prague district court.

The CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 7 May 1880, 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.

Further, the CRT notes that the Account Owner's name was not published on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), and that the Claimant filed an ATAG Ernst & Young claim form in 1998 and an Initial Questionnaires in 1999, asserting his entitlement to a Swiss bank account owned by the Account Owner. This indicates that the Claimant based his claim on a direct family relationship what was known to him independently of the publication of the ICEP List, which supports the credibility of the information provided by the Claimant. Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was owned by a Victim of Nazi Persecution. The Claimant stated that his father, the Account Owner's owner, was Jewish, and submitted documents, including: an excerpt from the company register of the Prague district court, indicating that the Account Owner was taken from its owner and placed under the control of a fiduciary under the Decree of 21 June 1939 on Jewish Assets issued by the German Reich's Protectorate of Bohemia and Moravia; as well as a document from the Jewish Community of Bohemia and Moravia and a declaration from the district court in Bremen, together indicating that the Claimant's father was deported to Theresienstadt and later to Majdanek, from which he never returned. As noted above, a person named [REDACTED] was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is the son of the owner of the Account Owner by submitting specific information and documents indicating that the Account Owner was owned by [REDACTED] and that the latter was his father. These documents include the Claimant's own birth certificate, a document related to compensation from the city of Bremen, copies of *Gallus & Wolf's* letterhead, and an excerpt from the company register of the Prague district court.

The Issue of Who Received the Proceeds

The Claimant submitted a letter written on the Account Owner's letterhead, dated 25 March 1939 in Prague, providing evidence that the account existed as of that date, which is ten days after the 15 March 1939 Nazi invasion of Czechoslovakia. Therefore, given that the Decree of 21 June 1939 on Jewish Assets issued by the German Reich's Protectorate of Bohemia and Moravia would have obliged the owner of the Account Owner to register all foreign assets,³ including the account at issue here, that the Prague district court's company register indicates that the Account Owner was "aryanized" in February 1941, that the owner of the Account Owner was deported to Theresienstadt in February 1942, and that he later perished in Majdanek; that the heirs of the owner of the Account Owner would not have been able to obtain information about the account after the Second World War from the Custodian due to the practice of withholding or misstating account information in response to inquiries by account owners' heirs because of the concern regarding double liability; and given the application of Presumption (h), 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 owner of 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 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 a company owned by his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner's owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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, 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 SF 49,375.00.

³ See *Protectorate of Bohemia and Moravia*, in *ENCYCLOPEDIA OF THE HOLOCAUST* 227-230, 228 (Israel Gutman, ed., MacMillan Publishing 1990).

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 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
18 November 2004