

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Howard David Straus
also acting on behalf of Charlotte Eva Ruth Straus, Margaret Edith Deگو,
Suzanne M. Brandt, Michael J. Oberlander, Peter E. Selten
and Paula Elizabeth Bates

in re Accounts of Max Gerson

Claim Number: 401395/BW/AC¹

Award Amount: 231,500.00 Swiss Francs

This Certified Award is based upon the claim of Howard David Straus (the “Claimant”) to the published accounts of Max Gerson (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a 2005 Claim Form identifying the Account Owner as his maternal grandfather, Dr. Max Bernhardt Gerson, who was born 18 October 1881 in Wongrowitz, Germany (now Wagrowiec, Poland) and was married to Gretchen Rose Hope on 20 November 1916 in Verl, Germany. Claimant indicated that his grandfather, who was a medical doctor, resided with his family from 1929 until July 1932 in Kassel, Germany, where he maintained a medical practice. According to the Claimant, his grandfather had three daughters: Johanna Oberlander, née Gerson, Charlotte Straus, née Gerson (the Claimant’s mother), and Gertrude Selten, née Gerson. The Claimant stated that in July 1932, his grandfather and his family moved to Berlin, Germany, and that on 1 April 1933, his grandfather went on a business trip to Vienna, Austria, and never returned to Germany. The Claimant indicated that his grandfather’s family spent nearly two years in Vienna, then left for Paris, France, where they stayed another year. The Claimant further stated that due to increasing discrimination, the family moved first to London, England, then to New York, the United States, in late 1936. The Claimant further stated that his grandfather settled in New York, where he lived until his death in 1959.

¹ The Claimant submitted an additional claim, which is registered under the Claim Number 500816. The CRT will treat this claim in a separate determination.

The Claimant submitted documents in support of his claim, including: (1) a copy of his grandfather's birth certificate, indicating that Max Gerson was born on 20 October 1881 in Wongrowitz, that his parents were Bernhard Gerson and Ulrike Gerson, née Abraham, and that they were Jewish; (2) a copy of Max Gerson's New York medical license; (3) a copy of his grandparents' Certificates of Naturalization, issued on 13 July 1944 indicating that Max Gerson and Margaret Rose Gerson were originally from Germany; (4) a sworn statement regarding the heirs of Margaret Gerson, indicating that she had a daughter named Charlotte Straus; and (5) a copy of his own birth certificate, indicating that his parents were Irwin Yehudah Straus and Charlotte Ruth Gerson, who was born in Bielefeld, Germany.

The Claimant indicated that he was born on 23 May 1943 in New York. The Claimant is representing his mother, Charlotte Eva Ruth Straus, née Gerson, who was born 27 March 1923 in Bielefeld; his sister Margaret Edith Dego, née Straus, who was born 17 July 1947 in New York; and his cousin, Peter Ernst Selten (the son of Gertrude Selten), who was born 20 April 1949 in New York; and his cousins Michael James Oberlander, who was born 28 March 1949 in New York; Paula Elizabeth Bates, née Oberlander, who was born 14 October 1950 in The Hague, Netherlands; and Margaret Suzanne Oberlander Brandt, née Cohn, who was born 21 August 1939 in Philadelphia, Pennsylvania, United States, all three of whom are the children of Johanna Oberlander, née Gerson.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Prof. Dr. Max Gerson, who resided in Kassel, Germany and Purkersdorf bei Wien (Vienna), Austria. The Bank's record indicates that the Account Owner held one safe deposit box, box 604, which was opened on 9 September 1933 and closed on 18 May 1935; one custody account, numbered L53395, which was opened on 14 December 1934 and closed on 2 August 1935; and four demand deposit accounts.

One demand deposit account, which was held in Pound Sterling, was closed on 10 January 1935. A second demand deposit account, which was held in United States Dollars, was transferred to a third demand deposit held in Swiss Francs on 31 January 1935, and the latter account was then transferred to a fourth demand deposit account held in United States Dollars on 20 June 1935. This account was subsequently closed on 31 July 1935.

The amount in the accounts on the dates of their transfer or closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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 maternal

grandfather's name matches the published name of the Account Owner. Further, the Claimant identified the Account Owner's professional title, and both countries and cities of residence listed in the Bank's record, which matches unpublished information about the Account Owner contained in the Bank's record.

In support of his claim, the Claimant submitted documents, including: (1) a copy of his grandfather's birth certificate; (2) a copy of Max Gerson's New York medical license; and (3) a copy of his grandfather's Certificate of Naturalization, providing independent verification that the person who is claimed to be the Account Owner had the same name, country of origin, and professional title recorded in the Bank's record as the name, country of residence, and professional title of the Account Owner.

The CRT notes that the name Max Gerson appears only once on the 2005 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different city of residence than the city of residence of 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 stated that the Account Owner was Jewish, and fled Nazi Germany for Austria in 1933 and later for France. The Claimant also stated that as the situation deteriorated in France, the Account Owner and his family fled France, via London, for the United States in 1936.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's maternal grandfather. These documents include: (1) a copy of his grandfather's birth certificate; (2) a sworn statement regarding the heirs of Margaret Gerson, indicating that she had a daughter named Charlotte Straus; and (3) a copy of his own birth certificate, indicating that his parents were Irwin Yehudah Straus and Charlotte Ruth Gerson. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. 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.

The Issue of Who Received the Proceeds

The Bank's record indicates that the Account Owner held one safe deposit box, closed on 18 May 1935; one custody account, closed on 2 August 1935; and four demand deposit accounts. The CRT notes that the first demand deposit account held in United States Dollars was transferred into a demand deposit account held in Swiss Francs, which was subsequently

transferred into a demand deposit account held in United States Dollars, and therefore determines that these accounts will be treated as a single demand deposit account that was closed on 31 July 1935. Additionally, the Account Owner held a separate demand deposit account in Pound Sterling that was closed on 10 January 1935.

The CRT notes that the Bank's record indicates that the Account Owner's demand deposit accounts were closed in 1935, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory.

With respect to the remaining accounts, given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Bank's record does not indicate to whom the accounts were closed; that the Account Owner resided in Nazi Germany before fleeing to Austria, France, England, and the United States; that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety; that the Account Owner and his heirs would not have been able to obtain information about his 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 (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendices A and C), the CRT concludes that it is plausible that the account proceeds were not paid to 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 represented parties Charlotte Eva Ruth Straus, Peter E. Selten, Suzanne M. Brandt, Michael J. Oberlander, and Paula Elizabeth Bates. 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 maternal grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Further, the CRT notes that represented party Charlotte Eva Ruth Straus, as the Account Owner's daughter, has a better entitlement to the accounts than the Claimant and represented party Margaret Edith DeGo, the children of represented party Charlotte Eva Ruth Straus and the grandchildren of the Account Owner.

Amount of the Award

In this case, the Account Owner held a safe deposit box, a custody account, and two demand

deposit accounts. 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 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. Thus, the total 1945 average value of the accounts at issue is SF 18,520.00. 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 231,500.00.

Division of the Award

According to Article 23(c) of the Rules, if the Account Owner’s spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his mother, Charlotte Eva Ruth Straus; his cousin, Peter Ernst Selten (the son of Gertrude Selten); and his cousins Michael James Oberlander, Paula Elizabeth Bates, and Margaret Suzanne Oberlander Brandt, all three of whom are the children of Johanna Oberlander, née Gerson. Consequently, represented parties Charlotte Eva Ruth Straus and Peter Ernst Selten are each entitled to one-third of the total award amount, and represented parties Michael James Oberlander, Paula Elizabeth Bates, and Margaret Suzanne Oberlander Brandt are each entitled to one-ninth of the total award amount.

As noted above, the Claimant and represented party Margaret Edith Deگو are less entitled than their mother, represented party Charlotte Eva Ruth Straus, and they are therefore not entitled to share in the award.

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
3 March 2006