

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Walter Friedrich

in re Account of Helene Gerstl

Claim Numbers: 501726/HU

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Helene Gerstl (the “Account Owner”) 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 identifying the Account Owner as her late husband’s paternal cousin, Helene Gerstl, who was born on 7 September 1893 in Neunkirchen, Austria. The Claimant indicated that her relative, who was one of three sisters, was the daughter of [REDACTED] and [REDACTED], née [REDACTED], and that she never married. The Claimant indicated that her relative, who was Jewish, was an accountant who resided in Wiener Neustadt, Austria at Martinsgasse 7 and Brodtischgasse 19 until January 1939, when she moved to Vienna, Austria. According to the Claimant, on 18 October 1941, her relative was deported to the ghetto in Litzmannstadt (Lodz), Poland, where she was deemed to have perished on 8 May 1945. The Claimant indicated that Helene Gerstl’s mother, [REDACTED], née [REDACTED], was the sister of [REDACTED], who was the father of the Claimant’s mother-in-law, [REDACTED], née [REDACTED] (the mother of the Claimant’s late husband, [REDACTED], formerly [REDACTED]). Finally, the Claimant indicated that her mother-in-law, Julia Holzer, was appointed as the administrator of the estate of Helene Gerstl’s sister, Gisela Gerstl, in 1983 and that the Claimant is Helene Gerstl’s closest living heir.

In support of her claim, the Claimant submitted copies of the following documents: 1) her own marriage certificate, indicating that [REDACTED], née [REDACTED], and [REDACTED], formerly [REDACTED], were married on 1 October 1977; 2) her husband’s will, in which [REDACTED] appointed his wife, [REDACTED], as the executor and trustee of his estate, and

as the heir of his residual estate; 3) a letter of administration, indicating that [REDACTED] died on 10 April 1996 and that [REDACTED] was appointed as the executor of his estate; 4) her mother-in-law's cousin's death declaration, issued by the regional Court of Vienna on 29 July 1948 at the request of her sister [REDACTED], indicating that Helene Gerstl, who was born on 7 April 1893 in Neunkirchen to [REDACTED] and [REDACTED], née [REDACTED], was Jewish, and resided at Hollandstrasse 14/10 in Wiener Neustadt, was deported to Lodz, and was considered deceased as of 8 May 1945; 5) her mother-in-law's cousin's death certificate, indicating that [REDACTED] was born on 14 February 1897 in Austria and died on 26 September 1983 in North Finchley, England; 6) her mother-in-law's cousin's inheritance documents, indicating that [REDACTED] was entitled to [REDACTED] entire estate; 7) her mother-in-law's death certificate, indicating that [REDACTED], née [REDACTED], was born 22 June 1896 in Austria, that she was the widow of [REDACTED], and that her son [REDACTED] reported her death; 8) a copy of Helene Gerstl's asset registration, which is described in detail below;¹ and 9) a copy of [REDACTED]'s asset registration, indicating that she was born on 14 February 1897, that she was unmarried, that she resided at Martinsgasse 7 in Wiener Neustadt, and that she owned one-half of a house located at that address.

The Claimant indicated that she was born on 17 February 1939 in Wallington, Surrey, the United Kingdom.

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.) Helene Gerstl, who resided in Wiener Neustadt, Austria. The Bank's record indicates that the Account Owner held a demand deposit account, which was opened on 31 January 1937.

The Bank's record indicates that the account was closed on 31 October 1938. The amount in the account 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 account and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). The Claimant provided documents concerning the assets of Helene Gerstl, numbered 46024. These records indicate that Helene Gerstl was born on 7 September 1893, that she resided at Martinsgasse 7, and that she was unmarried. These documents further indicate that Helene Gerstl was a civil servant who owned 50 percent of a house located at Martinsgasse 7 in Wiener Neustadt. According to these records, Helene Gerstl was informed that she would be dismissed from her job by the end of

¹ The CRT notes that by decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census").

April 1938 due to the aryанизation of her workplace. This document also shows that by the time she submitted her 1938 Census declaration in July 1938, she was unemployed and without income. Finally, an insert in her file indicates that Helene Gerstl had been deported to Poland and that her file was transferred to another administrative sector within Austria. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's relative's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information contained in the Bank's record. The Claimant also indicated that her relative was deported to Lodz, which is consistent with information contained in the 1938 Census records.

In support of her claim, the Claimant submitted documents, including Helene Gerstl's death declaration, issued by the regional Court of Vienna, and her 1938 Census declaration, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Helene Gerstl, and indicates that her date of birth was 7 September 1893, that her place of residence was Hollandstrasse 14/10 in Vienna, and that she was deported to Litzmannstadt on 19 October 1941, 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 name Helene Gerstl appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Person to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

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 stated that the Account Owner was Jewish, and was deported to the Lodz ghetto, where she perished. The Claimant also submitted Helene Gerstl's death declaration, which indicates that she was Jewish, that she was deported to Lodz in 1941, and that she was deemed deceased as of 8 May 1945.

As noted above, a person named Helene Gerstl was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's late husband's cousin. These documents include: Helene Gerstl's death declaration, indicating that [REDACTED] was Helene Gerstl's sister and that their mother's maiden name was [REDACTED]; a letter of administration, indicating that [REDACTED] died intestate and that [REDACTED] was entitled to her estate; the Claimant's mother-in-law's death certificate, indicating that [REDACTED] was the son of [REDACTED], née [REDACTED]; and the Claimant's marriage certificate and her husband's will, indicating that she was married to [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 31 October 1938.

Given that the Account Owner resided in Nazi-controlled Austria when the account was closed; that the account was closed 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 her 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 the Account Owner was her mother-in-law's cousin, and that relationship 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 demand deposit 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 account being awarded. Based on the investigation carried out pursuant to the instructions of ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

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
27 February 2007