

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED1]
acting on behalf of herself, [REDACTED2], [REDACTED3], [REDACTED4]and
[REDACTED5]

in re Account of Gerson Ginsberg

Claim Number: 221119/KB

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED1] (the “Claimant”) to the account of Gerson Ginsberg (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 a Claim Form identifying the Account Owner as her grandfather, as well as the grandfather of her sister [REDACTED2], and her cousins [REDACTED4], [REDACTED5] and [REDACTED3]. The Claimant stated that her grandfather was born on 24 August 1875 in Buczacz, Poland, where he later married [REDACTED]. The Claimant stated that her grandfather, who was Jewish, had three children: [REDACTED] (the mother of [REDACTED3]) born in Buczacz in 1900, [REDACTED] (the father of [REDACTED5] and [REDACTED4]) born in Brody, Poland, in 1902, and [REDACTED], the father of [REDACTED2], born in 1906, and of the Claimant.

The Claimant detailed how her grandfather was an importer of pig intestine and was involved with manufacturing and exporting sausage casing. The Claimant provided the Tribunal with copies of letters written by her grandfather on his business stationary, containing her grandfather’s signature and showing the address of the business in 1935 was Karmarschgasse 47, Wien X. According to the Claimant, this was her grandfather’s business address from 1927 until 1938, and his home address was Müllmergasse 35/8, Vienna. The Claimant described how Leo Ginsberg, Gerson Ginsberg’s son, was involved in the business, and that both traveled for business to various European countries.

The Claimant detailed how her grandfather and his family started leaving Vienna in July 1938, after one of her grandfather's children was arrested by the Nazis and then released and ordered to leave within two weeks. According to the Claimant, the whole family left via Trieste on the ship *Adriatica* in five sailings. The Claimant described how her grandfather and his wife arrived in Haifa, Palestine on 22 September 1938. Due to his age, the loss of his business, and expenses relating to the departure from Austria, her grandfather lived in one room in his daughter's apartment in Jerusalem and was financially dependant on his children.

Information Available in the Bank Records

The bank records consist of printouts from the bank's database and a power of attorney authorization. According to these records, the sole Account Owner was Gerson Ginsberg of Karmarschgasse 47, Vienna X, and the Power of Attorney Holder was Dr. Leo Ginsberg. The bank records indicate that the Account Owner held a custody account, and the documents include the signatures of the Account Owner and Power of Attorney Holder.¹

The bank records do not show if or when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

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 Gerson Ginsberg.

These records indicate assets declared by Gerson Ginsberg, including shares and bank accounts, held in Austria and other countries. These documents do not contain any information specifically relating to Gerson Ginsberg's Swiss bank account.

¹ The bank records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the Tribunal concludes that it is plausible that he held such an account.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather's name matches the published name of the Account Owner, and her uncle's name matches the published name of the Power of Attorney Holder. Moreover, the Claimant provided documents showing the Account Owner's business address which exactly match the unpublished information contained in the bank documents. Finally, the Claimant submitted a sample of her grandfather's signature, which matches the signature sample contained in the bank records.

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 that he lived in Vienna until at least July 1938, by which time he would have been a target of Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she and the relatives she represents are related to the Account Owner by submitting a wealth of documents including birth, death and marriage certificates, a passenger manifest, and inheritance decisions, demonstrating that the Account Owner was indeed her grandfather and the grandfather of the Claimants she represents. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the ICEP during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owner, or his family, or the Power of Attorney Holder, there is a substantial likelihood that these funds went to the Nazis or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that a plausible showing has been made that neither the Account Owner

nor his heirs received the proceeds.² The application of confiscatory laws in Austria by the Nazi Regime after the *Anschluss* of March 1938, as described in more detail in footnote 2 below, makes it unlikely that the Account Owner received the proceeds himself. The Account Owner did not leave Austria until several months after the Nazi occupation, and therefore he would have been subject to these confiscatory laws. The conclusion that the Nazis expropriated the account is supported by the Claimant's information that one of the Account Owner's children was arrested by the Nazis and then ordered to leave within two weeks, and that the Account Owner had no financial means when arriving in Palestine. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

Basis for the Award

The Tribunal 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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was the grandfather of her and the relatives she represents and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, the value of the

² In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. After the annexation of Austria, German laws were extended to apply there as well, and these laws applied to foreign assets of Austrian citizens as a result of a law promulgated on 23 March 1938. Although many of the laws were facially non-discriminatory, the Nazi Regime enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of Austria, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, www.crt-ii.org.

account at issue is based on the Article 35 presumptions. In this instance, 35% of the total award amount is 52,325.00 Swiss Francs.

Division of the Award

The Claimant is representing her sister and three of her cousins in these proceedings. According to Article 29 of the Rules, the Award will provide for equal shares between the children of the Account Owner, or if a child has not filed a claim, his or her share will be divided equally between any of his or her children or their descendants who have submitted claims to the account. Therefore, [REDACTED2], [REDACTED4], and [REDACTED5] are each entitled to receive one-sixth of any payment made to the Claimant, and [REDACTED3] is entitled to receive one third of any such payment.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal 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).

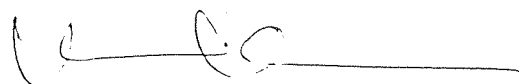
Certification of the Award

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Article 37(3)(a) and (b) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 of the Rules or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

26 March 2022

Date



Veijo Heiskanen
Senior Claims Judge