

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED] ¹

in re Account of Bertha Graf

Claim Number: 775437/MW²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of [REDACTED] and Berta Graf.³ This Award is to the published account of Bertha Graf (the “Account Owner”) at the Schaffhausen 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 an Initial Questionnaire (“IQ”) identifying the Account Owner as his mother, Berta Graf, who was born in approximately 1900 in Poland, and was married to [REDACTED]. The Claimant indicated that his mother, who was Jewish, lived at Arnezhofenstrasse 4/15 in Vienna II, Austria. The Claimant explained that after the *Anschluss* in 1938 his father was arrested and deported to Poland but managed to jump from the moving train and returned to Vienna. In a telephone conversation with the Claimant’s wife on 22 October 2004, the Claimant’s wife further explained that the Claimant’s father hid in Vienna until *Kristallnacht* (“The Night of the Broken Glass”), after which the family fled from Austria to

¹ Rudolf Graf passed away on 12 March 2004.

² Rudolf Graf did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered Eng 0198 029, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 775437.

³ The CRT did not locate an account belonging to the Claimant’s relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

Belgium, and then to Portugal for approximately six months, ultimately arriving in the United States. The Claimant's wife stated that the family attempted to enter Switzerland in 1938 but was refused entry at the Swiss border. The Claimant indicated that Berta Graf died in 1989 in New York, New York, the United States. The Claimant's wife submitted the Claimant's death certificate, which indicates that the Claimant's parents were Berta Graf, née Whittler, and [REDACTED], and that the Claimant was born in Austria. The Claimant indicated that he was born on 17 August 1926 in Vienna, Austria.

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Berta Graf. The Bank's record does not contain information about the Account Owner's domicile. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated. The Bank's record indicates that the account was transferred to a suspense account for dormant assets on 17 November 1987. The balance in the account on the date of the transfer was 13.95 Swiss Francs ("SF"). The Bank's record indicates that the account remains in the Bank's suspense account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother's name matches the published name of the Account Owner.⁴ The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name. The Claimant's wife submitted the Claimant's death certificate, which indicates that the Claimant's parents were Berta Graf, née Whittler, and [REDACTED], and that the Claimant was born in Austria, which provides independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner. The CRT further notes that the Claimant filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Berta Graf, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Furthermore, 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.

⁴ The CRT notes that the Claimant indicated that his mother's name was "Berta," while the Bank's record indicates that the Account Owner's name was "Bertha." However, the CRT further notes that "Berta" is a common alternative spelling of the name "Bertha," and consequently finds that this discrepancy does not adversely affect the Claimant's identification 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, that the Account Owner's husband was arrested after the *Anschluss*, and that the Account Owner and her family were forced to flee Austria in 1938 after the *Kristallnacht*.

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, demonstrating that the Account Owner was the Claimant's mother. In addition, the Claimant's wife submitted the Claimant's death certificate, which indicates that the Claimant's parents were Berta Graf, née Whittler, and [REDACTED].

The Issue of Who Received the Proceeds

The Bank's record indicates that the account remains in the Bank's suspense account.

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 his mother, and that relationship justifies an Award. Third, the CRT has determined 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 account of unknown type. The Bank's record indicates that the value of the account as of 17 November 1987 was SF 13.95. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 685.00, which reflects standardized bank fees charged to the account between 1945 and 1987. Consequently, the adjusted balance of the account at issue is SF 698.95 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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.

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
10 December 2004