

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Benno Gribeschock, A. Gribeschock, and D. Kaplan

Claim Numbers: 217897/WT; 217898/WT

Award Amount: 129,625.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Benno Gribeschock and A. Gribeschock. This Award is to the published and unpublished accounts of Benno Gribeschock (“Account Owner Benno Gribeschock”), A. Gribeschock (“Account Owner A. Gribeschock”), and D. Kaplan (“Account Owner D. Kaplan”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).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 bank have been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying Account Owner Benno Gribeschock as her cousin, Benno Gribeschock, who was born in Vilno, Poland (today Lithuania), and identifying Account Owner A. Gribeschock as Benno Gribeschock’s wife, Anna Gribeschock. The Claimant indicated that Benno Gribeschock was the son of [REDACTED], née [REDACTED], who was the sister of [REDACTED], née [REDACTED], who was the Claimant’s maternal grandmother. The Claimant indicated that Benno and Anna Gribeschock resided from 1930 to 1941 at Dzirnavu 53 in Riga, Latvia, where they owned a store. The Claimant indicated that Benno and Anna Gribeschock were Jewish, and that their fate after 1941 is unknown. The Claimant indicated that it is believed that they perished during the Holocaust, as did the rest of the Claimant’s mother’s family. Additionally, in correspondence with the CRT, the Claimant

¹ The CRT notes that, on the February 2001 published 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”), Benno Gribeschock, A. Gribeschock, and D. Kaplan are each indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of four accounts: two accounts owned by Benno Gribeschock and two accounts owned jointly by A. Gribeschock and D. Kaplan.

indicated that Benno Gribeschock was born in 1883, that he was also known as Benedikt, that Anna Gribeschock was born in 1889 in Lithuania, and that her maiden name was Malers.

The Claimant stated that she was born on 8 November 1933 in Ukraine.

Information Available in the Bank's Records

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey"). The Bank's records consist of documents prepared in connection with an internal survey of dormant accounts conducted in 1959, a list prepared in connection with the 1962 Survey, correspondence between the Bank and a relative of Account Owners Benno and A. Gribeschock, a signature sample, and printouts from the Bank's database.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of three customer cards and two signature samples.

According to these records, the Account Owners were Benno (or Benedikt) Gribeschock, who resided in Riga Latvia, at Dzirnavu iela 53 (also referenced as *Mühlestrasse* 53)² and *Frau* ("Mrs.") A. Gribeschock and *Frau* ("Mrs.") D. Kaplan, who resided in Riga.

Account Owner Benno Gribeschock's Accounts

The Bank's records indicate that Account Owner Benno Gribeschock held two accounts: a demand deposit account and an account whose type is not indicated. According to the Bank's records, the account of unknown type, numbered 267327, was opened in 1932 and the Bank was instructed to hold all correspondence. The Bank's records indicate that the account of unknown type was closed in March 1969. The amount in this account at closure is unknown.

As for Account Owner Benno Gribeschock's demand deposit account, the Bank's records indicate that it was opened in 1940. These records also indicate that the demand deposit account was included in the Bank's internal survey of dormant accounts in 1959, and that it had a balance of 60.50 Swiss Francs ("SF") on 1 January 1959. 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" or the "ICEP Investigation") did not find the demand deposit 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 Account Owner Benno Gribeschock's demand deposit account after 1945.

² The two street names, in Latvian and German, both translate into "mill street" in English.

The Bank's records contain a letter, dated 25 May 1952, from [REDACTED] of 24 Trumpeldor Street in Tel Aviv, Israel, who identified himself as Account Owner Benno Gribeschock's brother-in-law. In this letter, [REDACTED] indicated that Account Owner Benno Gribeschock was a famous wholesale merchant in Riga, the owner of a textile manufacturing business, and the co-owner of *Muschat*, a textile company located in Riga. [REDACTED] stated that Account Owner Benno Gribeschock and his family perished during the Holocaust. [REDACTED] asserted that he and his family were the only living heirs of Account Owner Benno Gribeschock. In the Bank's response to [REDACTED], dated 7 June 1952, the Bank stated that in order to establish his entitlement to the account, [REDACTED] was required to demonstrate that he was the heir of Account Owner Benno Gribeschock. However, the Bank further stated, in light of the small amount of money it held in Account Owner Benno Gribeschock's name (about SF 100.00), the Bank was willing to make an exception and to pay this amount to [REDACTED], provided that the Bank would not be held liable in the event of a second claim to the account. There is no indication in the Bank's records that the accounts were paid to [REDACTED]. As mentioned above, the Bank's records indicate that the demand deposit account was still open in 1959, and that the account of unknown type was closed in 1969. There is no evidence in the Bank's records that Account Owner Benno Gribeschock's heirs closed the accounts and received the proceeds.

Accounts of A. Gribeschock and D. Kaplan

The Bank's records indicate that Account Owners A. Gribeschock and D. Kaplan held two demand deposit accounts. According to the Bank's records, the first demand deposit account, opened on 17 November 1931, had a balance of SF 155.50 in May 1952. These records further indicate that the Bank considered the first demand deposit account for the 1962 Survey, but ultimately did not report it. According to these records, as of 15 November 1963, the balance of the first demand deposit account was SF 100.50. The ultimate disposition of this account is not indicated in the Bank's records.

As for the second demand deposit account, the Bank's records indicate that it was opened in 1940, that it was considered in the Bank's internal survey of dormant accounts in 1959, and that it had a balance of SF 180.50 as of 1 January 1959. The auditors who carried out the ICEP Investigation 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.

There is no evidence in the Bank's records that Account Owners A. Gribeschock and D. Kaplan or their heirs closed the accounts and received the proceeds.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the

CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Benno Gribeschock and Account Owner A. Gribeschock. Her cousin's name and his wife's name match the published names of Account Owner Benno Gribeschock and Account Owner A. Gribeschock. The Claimant identified her relatives' city of residence, which matches published information about Account Owner Benno Gribeschock and Account Owner A. Gribeschock contained in the Bank's records. The Claimant also identified Account Owner Benno Gribeschock's exact street address and the fact that he used the name Benedikt, which match unpublished information about Account Owner Benno Gribeschock contained in the Bank's records.

The CRT notes that the Claimant did not identify Account Owner D. Kaplan. However, considering that the Claimant was a child during the Second World War, that the Claimant's family resided in Ukraine, whereas Account Owner D. Kaplan resided in Latvia, and that there is no indication in the Bank's records that Account Owner D. Kaplan and Account Owner A. Gribeschock were related, the CRT determines that the Claimant's failure to identify Account Owner D. Kaplan does not adversely affect the plausibility of her identification of Account Owner A. Gribeschock. The CRT notes that there are no other claims to the accounts of Benno Gribeschock and A. Gribeschock, and that the other claims to the account of D. Kaplan were disconfirmed because those claimants provided a different gender and/or different countries of residence than those of Account Owner D. Kaplan.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Benno Gribeschock and Account Owner A. Gribeschock were Victims of Nazi Persecution. The Claimant stated that they were Jewish, that they lived in Latvia during the Second World War, and that they are believed to have perished in the Holocaust. Additionally, the letter from [REDACTED] in the Bank's records indicates that Account Owner Benno Gribeschock and his family perished in the Holocaust.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Benno Gribeschock and Account Owner A. Gribeschock by submitting specific biographical information demonstrating that Account Owner Benno Gribeschock was the Claimant's cousin and that Account Owner A. Gribeschock was her cousin's wife. Although the Bank's records contain a letter from a person who identified himself as a relative of Benno Gribeschock, no other claims to his accounts were submitted to the CRT, nor does the CRT have any information to indicate that the Account Owners have other surviving heirs. The CRT further notes that the Claimant identified unpublished information about Account Owner Benno Gribeschock 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 Account Owner Benno Gribeschock

and Account Owner A. Gribeschock were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to Account Owner Benno Gribeschock and Account Owner A. Gribeschock, as she has asserted in her Claim Forms.

The Issue of Who Received the Proceeds

According to the information in the Bank's records, all four of the accounts were still open many years after Account Owners Benno and A. Gribeschock perished in the Holocaust. There is no information available as to the identity or fate of Account Owner D. Kaplan. However, given that the Bank's records show that the two accounts belonging to Account Owners A. Gribeschock and D. Kaplan were dormant for fourteen years or more after the Second World War; that there is no record of the payment of the Account Owners' accounts to them or their heirs, that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 (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 Owners or their 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Benno Gribeschock was her cousin and that Account Owner A. Gribeschock was her cousin's wife, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held four accounts: three demand deposit accounts and one account of unknown type. The Bank's records provide the following balance information for the three demand deposit accounts: (1) SF 155.50 as of 25 May 1952, (2) SF 60.50 as of 1 January 1959, and (3) SF 180.50 as of 1 January 1959. In accordance with Article 31(1) of the Rules, these amounts are increased by adjustments of: (1) SF 120.00, (2) SF 225.00, and (3) SF 225.00, which reflect standardized bank fees charged to each demand deposit account between 1945 and the recorded balance dates. Consequently, the adjusted balances for the demand deposit accounts are: (1) SF 275.50, (2) SF 285.50, and (3) SF 405.50. However, according to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. As for the 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, in 1945 the average value of an account of unknown type was SF 3,950.00.

Thus, the combined average 1945 value for the four accounts at issue is SF 10,370.00. 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 129,625.00.

Division of the Award

The CRT notes that the Claimant has established her entitlement to Account Owner A. Gribeschock's share of the accounts, but not to whatever share originally belonged Account Owner D. Kaplan. However, under Article 25 of the Rules, in cases where a joint account is claimed by relatives of only one or some of the joint account owners, it shall be presumed that the account was owned as a whole in equal shares by the account owners whose shares of the account have been claimed. Therefore, in the absence of a claim from relatives of Account Owner D. Kaplan, the CRT shall presume that the accounts were wholly owned by Account Owner A. Gribeschock. Accordingly, the Claimant is entitled to the full award amount.

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 claims 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
23 June 2008