

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Ernst Gross

Claim Number: 216728/MW

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Ernst Gross (the “Account Owner”) 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 a Claim Form identifying the Account Owner as his father, Ernst Gross, who was born on 23 February 1880, in Bingen, Germany, and was married to [REDACTED], née [REDACTED], in Bingen in September 1911. The Claimant indicated that his father was a businessman who owned, together with his cousins [REDACTED] and [REDACTED], a wine retail business named *Wolfgang Gross Söhne*, which was located at the family home at 11 Gau Strasse, Bingen. The Claimant stated that he moved to Berne, Switzerland in 1933 to study theology. The Claimant also stated that he often signed documents on his family’s behalf, and that his family often used the Claimant’s Swiss address for various purposes. The Claimant indicated that he recalled that his father opened an account at the Zurich branch of the Bank, and that the account may have contained 20,000.00 Swiss Francs. However, sometime between 1935 and 1940 the Claimant’s father informed the Claimant that the Nazis forced him to transfer his foreign account to the Nazis. The Claimant stated that in March 1942, the Nazis confiscated his family’s business and home, deported his parents to Lublin, Poland, and soon after transported them to Majdanek concentration camp, where they both perished. The Claimant submitted an official family booklet, which indicates that the Claimant’s father is Ernst Gross; a Swiss residence permit, which indicates his father’s name; documents concerning the deportation of the Claimant’s family, which indicate the Claimant’s parents’ names; personal correspondence written by his

¹ An award for a custody account belonging to Ernst Gross was issued to the Claimant in a previous decision. See In re Account of Ernst Gross (approved by the Court on 28 August 2002). The CRT previously did not reach a decision regarding the demand deposit account belonging to Ernst Gross, and this decision addresses this account.

father and his family while the Claimant was studying in Berne, which indicates that the Claimant's father and his family lived in Bingen; and a business card from the Claimant's father's business, which indicates that the business named *W. Gross and Sons* was located in Bingen. The Claimant stated that he was born on 30 October 1913 in Bingen and that he is an only child.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Ernst Gross who resided in Bingen am Rhein, Germany. The Bank's record indicates that the Account Owner held a demand deposit account, which was closed on 31 May 1933. In addition, the Bank's record indicates that the Account Owner held a custody account, numbered L 41047, which was closed on 6 April 1938.² The amount in the demand deposit account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Account Owner's name and country of domicile match published information about the Account Owner. The Claimant identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. Furthermore, the Claimant identified the name of the Account Owner's bank and branch information, which matches unpublished information about the location of the account. In support of his claim, the Claimant submitted an official family booklet, which indicates that the Claimant's father is Ernst Gross; a Swiss residence permit, which indicates his father's name; personal correspondence written by his father and his family while the Claimant was studying in Berne, which indicates that the Claimant's father and his family lived in Bingen; and a business card from the Claimant's father's business, which indicates that the business named *W. Gross and Sons* was located in Bingen. All of these documents provide 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 Ernst Gross, and indicates that he was born on 23 February 1880 in Bingen, Germany, 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 other claim to this account 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 was deported in

² As previously stated, an award for the custody account was issued to the Claimant in a previous decision.

1942, together with his wife, [REDACTED], to Majdanek concentration camp, where they both perished. As noted above, a person named Ernst Gross was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that the Account Owner was his father, including an official family booklet, which indicates that the Claimant's father is Ernst Gross; and a Swiss residence permit, which indicates his father's name. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on its 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 Account Owner remained in Germany until the Nazis deported him to a concentration camp in 1942, and that he perished during his internment, and would not have been able to repatriate his account to Germany without losing ultimate control over the proceeds; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's heirs would not have been able to obtain information about his 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) and Appendix C,³ 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 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 father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the account at issue.

Amount of the Award

In this case, the Award is for 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 the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. The current value

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

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 26,750.00 Swiss Francs.

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