

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
and Claimant [REDACTED 2],
also acting on behalf of [REDACTED 3]

in re Account of David Grossberger

Claim Numbers: 224204/PY; 740376/PY¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of David Grossberger (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 Claimants

Claimant [REDACTED 1] submitted an Initial Questionnaire with the Court on 21 October 1999, identifying the Account Owner as her father, David Grossberger, who was born in 1890 in Bonyhad, Hungary. Claimant [REDACTED 1] indicated that her father resided in Sombor, Yugoslavia, at Venac Vojvode Bojovica 2, and was the owner of a textile factory in Sombor and real estate in Sombor, Sobotica, Yugoslavia, and in Split, Croatia. Claimant [REDACTED 1] stated that her father, who was Jewish, had his property confiscated and looted in April 1944.

The CRT notes that Claimant [REDACTED 1] participated in the *Witness to a Jewish Century* program of Centropa, a project of the *Central Europe Center for Research and Documentation*. According to Claimant [REDACTED 1]’s testimony there, her father was born in Bonyhad,

¹ Claimant [REDACTED 1] did not submit a Claim Form to the Claims Resolution Tribunal. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered SER 0001 191, 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 that 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 740376.

Hungary, to [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that as a young adult her father moved to Sombor, where he opened a textile factory named *Prva Jugoslovenska Fabrika za Tapaciranje* and a wholesale textile shop. According to Claimant [REDACTED 1], her father was married to [REDACTED], née [REDACTED], and they had two children: [REDACTED], who was born in 1924, and Claimant [REDACTED 1]. Claimant [REDACTED 1] explained that her mother died in 1934 and that in 1936 her father was remarried to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] further explained that her family remained in Sombor through the spring of 1941, when the Hungarian fascists took control of the region, and that her father was arrested and forced to pay one million Hungarian Pengo of the two million Hungarian Pengo required to have him and other Jews released. Claimant [REDACTED 1] stated that in 1944 her father was deported to Auschwitz, where he perished, that she and her stepmother were deported to Austria, where they were forced to work as slave laborers, and that in 1944, while in the camp, Claimant [REDACTED 1]'s stepmother gave birth to [REDACTED]. Claimant [REDACTED 1] stated that after her liberation on 8 May 1945, she returned to Yugoslavia, and lived in Sombor and later in Belgrade. Claimant [REDACTED 1] indicated that her stepmother died in 1989 in Israel. Claimant [REDACTED 1] submitted various photographs, including several of her father and of her father's tombstone, on which it is engraved that David Grossberger perished on 2 May 1944 in Auschwitz. In addition, Claimant [REDACTED 1] submitted her birth certificate, issued on 22 April 1942 in Sombor, indicating that she was born to [REDACTED] and David Grossberger, a Jewish merchant. Claimant [REDACTED 1] stated that she was born on 18 April 1926 in Sombor.

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his grandmother's benefactor, David Grossberger, who was Jewish. Claimant [REDACTED 2] enclosed a copy of a notarized gift agreement between David Grossberger, the gifter, and the giftee, [REDACTED], née [REDACTED], whom Claimant [REDACTED 2] identified as his paternal grandmother, made on 9 April 1936 in Vršac, Yugoslavia. According to this agreement, David Grossberger gave a gift of 400,000.00 Yugoslav Dinars to [REDACTED], payable from his Estate upon his death, and [REDACTED] accepted this gift in her name and in the name of her father, [REDACTED], and her husband, [REDACTED]. The agreement indicates that David Grossberger was a dealer in textiles, who resided at Kr. Dorda 5, Sombor, Yugoslavia, and was the son of [REDACTED] and [REDACTED], née [REDACTED]. It is further indicated that [REDACTED], née [REDACTED], resided in the village of Vatin, Yugoslavia. Claimant [REDACTED 2] indicated that David Grossberger was arrested on 26 April 1944 in Sombor, interned in Bajmok, Yugoslavia, then in Baja, Hungary, and that he was later deported to Auschwitz, where he perished in 1944. In a telephone conversation with the CRT on 3 June 2002, Claimant [REDACTED 2] stated that his grandmother's family resided in Vršac and maintained a business relationship of an unknown nature with David Grossberger. Claimant [REDACTED 2] stated that his father, [REDACTED 3], learned of the existence of this relationship during the 1970s or the 1980s from family acquaintances. Claimant [REDACTED 2] further indicated that he located the above gift agreement in the City Archive of Vršac but that he was unable to provide further information regarding the circumstances of this agreement.

In support of his claim, Claimant [REDACTED 2] submitted a copy of the indicated notarized gift agreement, along with his own, his father's and his grandfather's birth certificates, as well as

his grandmother's death certificate. These documents indicate that his paternal grandfather, [REDACTED], who was born on 8 November 1905, changed his last name from [REDACTED] to [REDACTED] on 25 October 1937, and died on 12 April 1986 in Vršac. It is further indicated that Claimant [REDACTED 2]'s grandmother, [REDACTED], née [REDACTED], who was the daughter of [REDACTED] and [REDACTED], was born on 2 May 1914 in Janožda, Romania, and died on 11 July 1989 in Vršac. Finally, it is indicated that Claimant [REDACTED 2]'s father, whom he represents in these proceedings, was born in 15 August 1938 in Vatin and that Claimant [REDACTED 2] was born on 15 September 1971 in Vršac.

Information Available in the Bank's Records

The Bank's records consist of an account card and a printout from the Bank's database. According to these records, the Account Owner was David Grossberger, who resided in Sombor, Yugoslavia. The Bank's records indicate that the Account Owner held a numbered account, number 1914, the type of which is not recorded.

The Bank's records do not show 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 (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 the Account Owner or his heirs closed the account and received the proceeds themselves.

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 Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s father's name and city of residence match the published name and city of residence of the Account Owner, as do the name and city of residence of Claimant [REDACTED 2]'s grandmother's benefactor. In support of her claim, Claimant [REDACTED 1] submitted her birth certificate, issued in Sombor, indicating that her parents were David and [REDACTED] Grossberger, and Claimant [REDACTED 2] submitted a copy of a gift agreement, indicating that David Grossberger was a merchant in Sombor, both 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 records as the name and residence of the Account Owner.

The CRT notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to an account owned by her father, David Grossberger from Sombor, Yugoslavia, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), which indicates that Claimant [REDACTED 1] had reason to believe that her father owned a Swiss bank account prior to the ICEP Investigation. This supports the credibility of the information provided by Claimant [REDACTED 1].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named David Grossberger and indicates that he was born on 6 January 1890 in Bonyhad, Hungary, resided in Sombor, Yugoslavia, and perished on 1 May 1944 in Auschwitz, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city of residence than that of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated her father was Jewish and that his property was confiscated and looted in April 1944. In her testimony to the *Witness to a Jewish Century* program, Claimant [REDACTED 1] stated that her father remained in Sombor through the occupation of the region by the Hungarian Fascists and that in 1944 her father was deported to Auschwitz, where he perished. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he was arrested on 26 April 1944 in Sombor, interned in Bajmok, Yugoslavia, then in Baja, Hungary, and that he was later deported to Auschwitz, where he was killed in 1944. As noted above, a person named David Grossberger was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting her birth certificate, indicating that she is the daughter of David Grossberger.

Claimant [REDACTED 2] has plausibly demonstrated that he is related to [REDACTED], née [REDACTED], by submitting documents including his own and his father's birth certificates, demonstrating that he is her grandson. Claimant [REDACTED 2] submitted a notarized gift agreement, according to which his grandmother was entitled to a payment of 400,000.00 Yugoslav Dinars from the Estate of the Account Owner.

The Issue of Who Received the Proceeds

Given that the Account Owner was deported to Auschwitz, where he perished; that there is no record of the payment of the Account Owner's account to him or to his heirs nor any record of a date of closure of the account; that the Account Owner and his 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 (h), (i) and (j), as provided in Article 28 of the Rules, as amended (see Appendix A), 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 Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her 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 claimed account. Further, the CRT notes that Claimant [REDACTED 1], as the daughter of the Account Owner, has a better entitlement to the account than Claimant [REDACTED 2], who is the grandson of the beneficiary of a gift made by the Account Owner.

Amount of the Award

In this case, the Account Owner held one 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 3,950.00 Swiss Francs. 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 49,375.00 Swiss Francs.

Division of the Award

According to Article 23(2)(b) of the Rules, if none of the named beneficiaries in the Account Owner's will or other inheritance document has filed a claim, the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. The CRT notes that Claimant [REDACTED 2] is basing his entitlement on the gift agreement in which the Account Owner named Claimant [REDACTED 2]'s grandmother as the recipient of the sum of 400,000.00 Yugoslav Dinars from the Account Owner's Estate. Given that Claimant [REDACTED 2] did not submit an unbroken chain of wills or inheritance documents because he did not provide inheritance documents relating to his grandmother; that the gift document did not

indicate that Claimant [REDACTED 2] or his father are entitled to any part of the Account Owner's Estate; and that it did not indicate that the claimed payment of 400,000.00 Yugoslav Dinars was to be paid out of the Account Owner's Swiss bank account, the CRT finds that Claimant [REDACTED 2] is not entitled to the account.

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 1] is entitled to the total award amount.

Scope of the Award

Claimant [REDACTED 1] 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
29 June 2004