

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Shoshana Nahon
acting on behalf of herself and of her brother Yehuda Grosz
both represented by Paul Kertesz

in re Account of Adolf Grosz

Claim Number: 212349/EZ

Award Amount: 211,818.50 Swiss Francs

This Certified Award is based upon the claim of Shoshana Nahon (the “Claimant”) to the account of Adolf Grosz (the “Account Owner”) at the Geneva branch of [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her grandfather, who was born on 26 August 1874 in Slovakia, and married Iren Grosz, née Neudorfer, in 1908 in Comandau, Romania. The Claimant stated that her grandfather lived in Brasov, Romania and owned a plywood store, which was confiscated in October 1940. She further stated that her grandfather was forced to perform slave labor in 1942 and died in Stalin, Romania, as a result of hardship on 21 February 1944.

The Claimant stated that she is the granddaughter of the claimed Account Owner and that she was born on 22 May 1952 in Romania.

Information Available in the Bank Records

The bank records consist of printouts stating that the sole Account Owner was Adolf Grosz who held a savings account. The bank records indicate Brasov, Romania, as the Account Owner’s residence.

Although there is no record of a specific account opening date, the bank records indicate that the account was opened by 1939. The records indicate further that the balance of the account on 24

January 1942 was 18,419.00 Swiss Francs, and that the account was transferred to a suspense account on or before 25 April 1951.

The records also indicate that the account was closed on 31 July 1989. However, it is not known who closed the 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 indicated that there was no evidence of activity on this account after 1945.

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. The Claimant stated that her grandfather lived in Brasov, Romania, which was later known as Stalin. This information matches the records about the Account Owner contained in the bank documents. In support of her claim, the Claimant submitted documents, including the death certificate of her grandfather, which indicates that he had died in Stalin, Romania.

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, was forced to perform slave labor, and perished in 1944 as a result of hardship.

The Claimant Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents including the marriage certificate of the Account Owner, the death certificate of the Account Owner's son and the Claimant's father, and other documents that clearly show the family relationships. 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 Independent Committee of Eminent Persons 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 as described below, 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. On or before 25 April 1951, seven years after the Account Owner's death, the bank transferred the account at issue to a suspense account, which is a grouping of open and dormant accounts. The account was then closed on 31 July 1989 and there is no record indicating that the proceeds were paid to the Account Owner's heirs. The Tribunal notes that had such a payment occurred, the Bank would have been obligated to preserve a record under Swiss Law, which since 1986 has prohibited the destruction of such bank documents. Although the circumstances of the closure of the account are unknown, it is plausible that the Account Owner did not receive the proceeds of the account. The Tribunal's conclusion also is required by Article 34(b) of the Rules, which provides that where the account was closed after 1955 or ten years after the freeze of accounts from the country of residence of the Account Owner was lifted (whichever is later), and there is no record regarding who closed the account, the Tribunal shall presume that neither the account owners nor their heirs received the proceeds of the claimed account. In this case, the account at issue was closed in 1989, 39 years after the lifting of the freeze of accounts from Romania.

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 her grandfather and that relationship justifies an Award. Finally, the Tribunal has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

The Bank records indicate that the value of the savings account as of 24 January 1942 was 18,419.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the historic value by a factor of 11.5, in accordance with Article 37(1) of the Rules. Consequently, the total award amount in this case is 211,818.50 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. In this case, there is the possibility of other competing claims. 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, 35% of the total award amount is 74,136.48 Swiss Francs.

Division of the Award

The Claimant is representing her brother, Yehuda Grosz, in these proceedings. According to Article 29 of the Rules, her brother is entitled to receive one-half (50%) of any payment made to the Claimant.

Scope of the Award

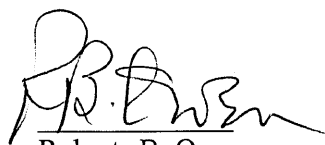
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 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 plausible 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. The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They have therefore instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a plausible claim and that the risk of future competing claims is low, the Tribunal shall prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a strong plausible claim to the account at issue, thus reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval by the Court of the present Award for payment by the Special Masters in accordance with Article 37(3) of the Rules.

28 Feb. 2002
Date


Roberts B. Owen
Senior Claims Judge