

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Boris Greenstein
represented by Miriam Greenstein

and to Claimant Henry Fairstein
also acting on behalf of Sofia Haller

in re Account of Maurice Grünstein

Claim Numbers: 004939/ES;¹ 220492/ES²

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claims of Boris Greenstein (“Claimant Greenstein”) and Henry Fairstein (“Claimant Fairstein”) (together the “Claimants”) to the published account of Maurice Grünstein (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimants

Claimant Greenstein

Claimant Greenstein submitted a Claim Form identifying the Account Owner as his paternal uncle, Maurice (Morshko) Grunstein (Greenstein), who was Jewish, and who was born in Kiev, Russia (now the Ukraine). Claimant Greenstein stated that his father, Pavel Grunstein, had 12 brothers and sisters who left Russia after the Russian revolution in 1917. Claimant Greenstein indicated that his father, who remained in Russia, received letters from Maurice (Morshko) Grunstein from various countries in Europe until 1937 when the correspondence was intercepted

¹ Claimant Greenstein submitted two additional claims to the accounts of Solomon Greenstein and Anna Wolff, which are registered under the Claim Numbers 004940 and 004941. The CRT will treat the claims to these accounts in separate decisions.

² Claimant Fairstein submitted two additional claims to the accounts of Maier Segal and Salomon Klein, which are registered under the Claim Numbers 220491 and 220493. The CRT has previously issued an award to Claimant Fairstein for the accounts of Salomon Klein. See *In re Accounts of Salomon Klein and Lella Margulici*, which was approved by the Court on 2 January 2003. The CRT will treat the claim to the account of Maier Segal in a separate decision.

by both the Stalin and the Nazi regimes. Claimant Greenstein stated that after the Second World War his father tried to trace his brothers and sisters, to no avail and therefore he assumed that they had all perished in the Holocaust. Claimant Greenstein submitted his Russian birth certificate, indicating his father was Pavel Greenstein, and extracts from the records of the city of Kiev and from the rabbinic records, indicating Maurice Morshko Grunstein (Greenstein) was the brother of Pavel Greenstein.³

Claimant Greenstein indicated that he was born on 30 April 1939 in Moscow, Russia.

Claimant Fairstein

Claimant Fairstein submitted a Claim Form identifying the Account Owner as his maternal uncle, Maurice Grünstein, who was born in 1896 in Ivesti, Romania, and was married to Lizette Cianouici in France. Claimant Fairstein stated that his uncle, who was Jewish, was a dental surgeon who moved to Paris, France, in 1917, where he resided until 1929 when he moved to Aubenas, France, where he resided until 1939. Claimant Fairstein stated that his uncle was imprisoned by the German army. Claimant Fairstein further stated that after being in prison, his uncle went into hiding in the unoccupied part of France under the Vichy regime. Claimant Fairstein indicated that his uncle suffered memory loss as a result of his persecution during the Second World War and that he never practiced medicine again. Claimant Fairstein stated that his uncle died on 24 September 1966 in Paris without issue, and that his uncle's wife is also deceased. Claimant Fairstein further indicated that his father, Marcu Fairstein, who resided in Romania, transferred funds to a Swiss bank account under the name of Maurice Grünstein. Claimant Fairstein indicated that there was a letter confirming that the amounts transferred to the account of Maurice Grünstein belonged to Marcu Fairstein. However, Claimant Fairstein stated that when he was forcibly evicted from his house in Romania in 1950 he lost all his documents, including that letter. Claimant Fairstein submitted his birth certificate, indicating his mother's maiden name was Simha Grunstein.

Claimant Fairstein indicated that he was born on 23 October 1920 in Paris. Claimant Fairstein is representing his sister, Sofia Haller, née Fairstein, who was born on 18 October 1916 in Tecuci, Romania.

Information Available in the Bank's Record

The Bank's record consists of an extract from a suspense account ledger. According to this record, the Account Owner was Maurice Grünstein. The Bank's record does not contain information about the Account Owner's domicile. The Bank's record indicates that the Account Owner held a savings/passbook account numbered 7739.

The Bank's record indicates that the account was considered dormant by the Bank and was transferred to a suspense account for dormant assets on or before 25 April 1963. The amount in the account on 25 April 1963 was 2.40 Swiss Francs ("SF").

³ The CRT notes that the documents provided by Claimant Greenstein are in the Cyrillic alphabet and that the names in these documents may therefore be transliterated in various ways.

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 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 record 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

The name of Claimant Greenstein's uncle and the name of Claimant Fairstein's uncle both match the published name of the Account Owner. The CRT notes that the Bank’s record does not contain any specific information about the Account Owner other than his name.

In support of their claims, Claimant Greenstein submitted extracts from the records of the city of Kiev and from the rabbinic records, indicating Maurice Morshko Greenstein was the brother of Pavel Greenstein and providing independent verification that the person who is claimed to be the Account Owner had the same name as the name of the Account Owner. Claimant Fairstein submitted his birth certificate, indicating his mother’s maiden name was Grünstein, providing independent verification that the person who is claimed to be the Account Owner had the same name as the name of the Account Owner.

The CRT notes that Claimant Greenstein's relative and Claimant Fairstein's relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank’s records; that there is no additional information in the Bank’s records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant Greenstein and Claimant Fairstein have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants each stated that the Account Owner was Jewish. Claimant Greenstein stated that the Account Owner resided in Europe and that he was assumed to have perished in the Holocaust. Claimant Fairstein stated that the Account Owner was imprisoned by the German army, after which he went into hiding in the unoccupied part of France.

The Claimants' Relationship to the Account Owner

Each of the Claimants has each plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was their uncle. Claimant Greenstein submitted his Russian birth certificate, indicating his father was Pavel Greenstein, and extracts from the records of the city of Kiev and from the rabbinic records, indicating Maurice Morshko Greenstein was the brother of Pavel Greenstein.

The CRT notes that Claimant Fairstein submitted his birth certificate, indicating that his mother's maiden name was Simha Grunstein, which provides independent verification that Claimant Fairstein's maternal relatives bore the same family name as the Account Owner, which supports the plausibility that Claimant Fairstein is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him 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) 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 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Greenstein has plausibly demonstrated that the Account Owner was his uncle and Claimant Fairstein has likewise plausibly demonstrated that the Account Owner was his uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a savings/passbook account. The Bank's record indicates that the value of the savings/passbook account as of 25 April 1963 was SF 2.40. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the savings/passbook account between 1945 and 25 April 1963. Consequently, the adjusted balance of the account at issue is SF 287.40. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than SF 830.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. 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 10,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant Greenstein and Claimant Fairstein are each entitled to one-half of the Award amount.

Further, 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. In this case, Claimant Fairstein is representing his sister, Sofia Haller, née Fairstein. Accordingly, Claimant Fairstein and his sister are each entitled to one-fourth of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
15 July 2005