

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Stanislaw Gutman

Claim Number: 205907/ES¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Stanislaw Gutman (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 maternal uncle, Stanislaw Gutman, who was born in Poland, and was married to Lucyna Gutman. The Claimant stated that his uncle, who was Jewish, resided in Lodz, Poland, with his wife before the Second World War, and that they both perished in the Holocaust. The Claimant stated in his Claim Form that he barely remembers his uncle and aunt, and he remembers only that they visited his parents in Warsaw, Poland, in 1938. The Claimant stated that he has no personal information regarding his relatives and no detailed information of their whereabouts during the Second World War. The Claimant indicated that to the best of his knowledge, Stanislaw Gutman traveled to Switzerland several times before the Second World War. The Claimant submitted his birth certificate indicating he was born in Poland to [REDACTED] and [REDACTED]. The Claimant indicated that he was born on 15 August 1928 in Krakow, Poland.

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 205906. The CRT will treat the claim to this account in a separate decision.

² 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”), Stanislaw Gutman is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

The Claimant indicated that his father was killed in the Warsaw Ghetto in 1942.

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database and an account opening contract, dated 20 August 1930, and signed in Zurich, Switzerland. This contract contains a power of attorney clause agreed upon by the Power of Attorney Holder in Lodz, Poland, on 7 September 1930. According to these records, the Account Owner was Stanislaw Gutman who resided in Lodz, and the Power of Attorney Holder was his wife, Lucyna Gutman, née Barcinski. The Bank's records indicate that the Account Owner held a custody account, numbered 29915, and a demand deposit account.

The demand deposit account was closed on 15 July 1940, and the custody account was closed no later than 1 November 1940. The Bank's records do not indicate the value of these accounts on their closing dates. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's uncle's name, country, and city of residence match the published name, country, and city of residence of the Account Owner. The Claimant's aunt's name matches the published name of the Power of Attorney Holder. The Claimant stated that the Account Owner and the Power of Attorney Holder were married, which matches unpublished information contained in the Bank's records.

The CRT notes that the name Stanislaw Gutman appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably those of Victims of Nazi Persecution (the "ICEP list"). The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different spouse's maiden name than the maiden name of the Account Owner's spouse. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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 that he and his wife both perished in the Holocaust.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's uncle. The CRT notes that the Claimant submitted his birth certificate, indicating his mother's maiden name was [REDACTED], providing independent verification that the Claimant's relatives bore the family name [REDACTED], which supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the demand deposit account was closed on 15 July 1940 and that the custody account was closed no later than 1 November 1940; that the Account Owner and the Power of Attorney Holder both perished in the Holocaust; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's heirs would not have been able to obtain information about his 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 (a)(ii), (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 proceeds of the accounts were not paid to the Account Owner, the Power of Attorney Holder, 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 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 uncle, 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 accounts.

Amount of the Award

In this case, the Account Owner held one custody account and 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (SF), and the average value of a demand deposit account was SF 2,140.00 to produce a total 1945 average value of SF 15,140.00. 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 189,250.00.

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
8 August 2004