

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Hubert Lang

and Claimant [REDACTED 2]
represented by Dr. [REDACTED]

in re Accounts of Albert Guttman and Camilla Guttman

Claim Numbers: 207321/LV; 207322/LV; 217425/LV; 217429/LV¹

Award Amount: 351,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Albert Guttman (“Account Owner Albert Guttman”) and the published account of Camilla Guttman (“Account Owner Camilla Guttman”) (together “the Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as both claimants have in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Albert (Abraham) Guttman as her maternal great-uncle, who was born on 11 September 1864 in Papa, Hungary, and was married to Camilla Guttman, née Falkenauer, who was born on 2 May 1875, and whom Claimant [REDACTED 1] identified as Account Owner Camilla Guttman. Claimant [REDACTED 1] further stated that her relatives, who were Jewish, resided at Naglergasse 6 in Vienna, Austria, and that they did not have children. Claimant [REDACTED 1] further stated that her great-uncle was the owner of a company named *Firma Marmorek und Beywasser*, which was also known by the name of *Kohle Wien*. According to the information provided by Claimant

¹ Claimant [REDACTED 2] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 217426. The CRT will treat the claim to this account in a separate decision.

[REDACTED 1], her great-uncle committed suicide in 11 November 1941. Claimant [REDACTED 1] stated that on an unknown date her widowed great-aunt was deported to Theresienstadt, where she perished. In support of her claim, Claimant [REDACTED 1] submitted her great-uncle's death certificate, which indicates that he died in Vienna on 11 November 1941 and a letter dated 13 November 2000 from the Jewish Community in Vienna, which verifies that Claimant [REDACTED 1]'s great-uncle died in Vienna on 11 November 1941, indicating that he resided in Vienna. Claimant [REDACTED 1] indicated that she was born on 3 February 1914 in Gautzsch, Germany.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying Account Owner Albert Guttman as her maternal uncle, who was born in approximately 1870 in Vienna, Austria, and was married to Account Owner Camilla (Netti, Kamilla) Guttman. Claimant [REDACTED 2] stated that the couple, who were Jewish, resided at Grabnergasse 9, Vienna VI, Austria. Claimant [REDACTED 2] stated that her uncle and aunt did not have children. Claimant [REDACTED 2] further stated that her uncle was a wealthy industrialist who was the owner of a factory and foundry located in Czechoslovakia, which manufactured large melting pots used in the making of metals. According to the information provided by Claimant [REDACTED 2], her relatives resided at Grabnergasse 9 in Vienna until 1939. Claimant [REDACTED 2] stated that her uncle's personal and business assets were confiscated by the Nazis in approximately 1938 or 1939. According to the information provided by Claimant [REDACTED 2], her uncle's wife committed suicide on an unknown date in Vienna shortly after she was forced by Nazi thugs to disrobe on a street in Vienna. Claimant [REDACTED 2] stated that her widowed uncle died while fleeing to Cuba by boat between August and November of 1939. Claimant [REDACTED 2] submitted a letter dated 18 May 1935 signed by her uncle and aunt on her uncle's stationery, which was written to Claimant [REDACTED 2]'s husband upon the birth of their son, and signed *Tante Camilla* and *Onkel Albert* ("Aunt Camilla and Uncle Albert"), indicating that Claimant [REDACTED 2] was their niece. Claimant [REDACTED 2] indicated that she was born on 25 September 1908 in Vienna. Claimant [REDACTED 2] previously submitted an Initial Questionnaire with the Court in 2000 and an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by Albert Guttman and Camilla Guttman.

Information Available in the Banks' Records

The Bank's records consist of two customer cards. According to these records, Account Owner Albert Guttman was Albert Guttman, who resided in Vienna, Austria. These records indicate that Account Owner Albert Guttman held one demand deposit account in Swiss Francs, which was opened on 10 June 1933 and was closed on 20 December 1939, as well as a custody account, numbered L49834, which was opened on 31 May 1933 and was closed on 14 September 1938. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's records that Account Owner Albert Guttman or his heirs closed the accounts and received the proceeds themselves.

The Bank's records further indicate that Account Owner Camilla Guttmann, was *Frau* (Mrs.) Camilla Guttmann who also resided in Vienna, Austria. The Bank's records indicate that Account Owner Camilla Guttmann held a custody account numbered L61208, which was opened on 10 November 1938 and was closed on 23 January 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that Account Owner Camilla Guttmann or her heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are two sets of documents concerning the assets of two different people named Albert Guttmann and one set of documents concerning the assets of Camilla Guttmann, née Chat.

These documents include a 1938 Census declaration for Albert Guttmann, numbered 1191, which is dated 7 July 1938 in Vienna. These records indicate that Albert Guttmann was Jewish, that he was born on 11 September 1864 in Papa, Hungary, and that he was married to Camilla Guttmann, née Falkenau, who was Jewish and was born on 1 September 1868. The records show that Albert Guttmann resided at Naglergasse 6, Vienna I, Austria, beginning in 1900, and that he was a representative for German, French and English companies in the business of selling upholstery fabrics. The documents contain a letter dated 22 May 1941 indicating that Albert Guttmann held assets totalling 158,385.00 Reichsmark ("RM"), that he was required to pay "flight tax" (*Reichsfluchtsteuer*) to the Nazis in an amount of RM 39,600.00, and that he held securities valued at RM 898.68, which he sold through the *Länderbank Wien* on or before 21 October 1938. These records make no mention of assets held in a Swiss bank account.

The documents available from the Austrian State Archive also include a 1938 Census declaration for a different person named Albert Guttmann, numbered 1183, which is dated 20 June 1938 in Vienna. These records indicate that Albert Guttmann was Jewish, that he was born on 15 June 1871, and that he was married to a different person named Camilla Guttmann, née Chat, who was Jewish. The records show that Albert Guttmann resided at Grabnergasse 12-14, Vienna VI, Austria, and that he was a *Privatier* (a person living on private means). The documents indicate that Albert Guttmann and his wife held assets totalling RM 319,293.00, as of 10 June 1939, which was reduced to a value of RM 181,620.00 on 25 July 1940, and that they were required to pay "flight tax" (*Reichsfluchtsteuer*) of RM 45,500.00 on 10 June 1939. The documents further indicate that Albert Guttmann held a considerable amount of domestic and international securities, which he sold to a branch of the *Reichsbank (Reichsbankstelle)* through the *Länderbank Wien* on 7 June 1938. These records make no mention of assets held in a Swiss bank account.

Finally, the documents from the Austrian State Archive include a 1938 Census declaration for Camilla Guttmann, née Chat, numbered 1184, which is dated 28 June 1938 in Vienna. These records indicate that Camilla Guttmann was Jewish, that she was born on 2 May 1875, and that

she was married to Albert Guttmann, who was Jewish. The records show that Camilla Guttmann resided at Grabnergasse 12-14, Vienna VI, Austria, and that she was a businesswoman, who as of 28 June 1938 owned two firms named *Firma Alfred Schwarz*, one located at Grabnergasse in Vienna, which was in the process of being *aryanized (Arisierung)* the other one, which she stated was unrelated to the Vienna firm, located in Brünn. The documents further indicate that Camilla Guttmann owned rental property valued at RM 110,000.00 and a considerable amount of domestic and international securities valued at RM 48,188.00 which she sold to a branch of the *Reichsbank (Reichsbankstelle)* through the *Länderbank Wien* on 7 June 1938. The records further indicate that Camilla Guttmann was previously married and known by the name of Camilla Schwarz, née Chat. Lastly, the documents contain a summary of the assets of *Firma Alfred Schwarz, Vienna* dated 26 April 1938, which indicate that this company was valued at RM 77,508.54, which included several domestic and international company bank accounts including a bank account at the Bank in Zurich with a value of 505.40 Swiss Francs (“SF”).²

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 four claims of the Claimants in one proceeding.

Identification of the Account Owners

Claimant [REDACTED 1]’s great-uncle’s and great-aunt’s names match the published names of the Account Owners. Claimant [REDACTED 1] identified her relatives’ city of residence as Vienna, which matches unpublished information about the Account Owners contained in the Bank’s records. In support of her claim, Claimant [REDACTED 1] submitted documents, including her great-uncle’s death certificate and a letter from the Jewish Community in Vienna identifying Claimant [REDACTED 1]’s great-uncle’s dates of birth and death, indicating that he resided in Vienna.

Claimant [REDACTED 2]’s uncle’s and aunt’s names match the published names of the Account Owners. Claimant [REDACTED 2] identified her relatives’ city of residence as Vienna, which matches unpublished information about the Account Owners contained in the Bank’s records.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 2000 and an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by Albert Guttmann and Camilla Guttmann, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP List”). This

² There is no indication that this account is identical to any of the accounts referred to in the Bank’s records. The CRT previously issued to Claimant [REDACTED 2] a Certified Award to the account owned by *Firma Alfred Schwarz*, which was approved by the Court on 31 December 2003. See *In re Accounts of Alfred Schwarz*.

indicates that Claimant [REDACTED 2] has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relatives, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2].

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. The CRT also notes that Claimant [REDACTED 2]'s relative owned a company which held an account at the Bank. However, there is no evidence in the Bank's records that the account belonging to Account Owner Camilla Guttmann was related to this company account or that this account belonged to the owner of that company. Moreover, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information 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 these accounts, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owners as Victims of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owners were Victims of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owners were Jewish, that her great-uncle and great-aunt lived in Vienna after the *Anschluss*, and that her great-aunt was deported to Theresienstadt, where she perished.

Claimant [REDACTED 2] has made a plausible showing that the Account Owners were Victims of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owners were Jewish, that her aunt committed suicide after having been forced by Nazi thugs to disrobe on a street in Vienna, and that her great-uncle died while fleeing to Cuba by boat in 1939.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Albert Guttmann, and indicates that his place of residence was Vienna, Austria, 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.

The Claimants' Relationships to the Account Owners

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owners by submitting a family tree demonstrating that she is the Account Owners' great-niece. Claimant [REDACTED 1] also submitted her great-uncle's death certificate, which indicates that he died in Vienna on 11 November 1941 and a letter from the Jewish Community in Vienna, which verifies that her great-uncle died in Vienna on 11 November 1941. The CRT notes that it is plausible that these documents are documents, which most likely only a family member would

possess. There is no information to indicate that the Account Owners identified by Claimant [REDACTED 1] have other surviving heirs.

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owners by submitting a family tree and a letter from the Account Owners and signed *Tante Camilla* and *Onkel Albert* ("Aunt Camilla and Uncle Albert"), demonstrating that she is the Account Owners' niece. The CRT notes that it is plausible this document is a document, which most likely only a family member would possess. There is no information to indicate that the Account Owners identified by Claimant [REDACTED 2] have other surviving heirs.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and subsequently, their accounts were closed unknown to whom or are transferred to a bank in Austria. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; that Account Owner Albert Guttmann either committed suicide in 1941, as Claimant [REDACTED 1] indicated, or died while fleeing to Cuba by boat in 1939, as Claimant [REDACTED 2] indicated; that Account Owner Camilla Guttmann either perished in Theresienstadt, as Claimant [REDACTED 1] indicated, or committed suicide during World War II, as Claimant [REDACTED 2] indicated; that there is no record of payment of the Account Owners' accounts to the owners; that the Account Owners' heirs would not have been able to obtain information about the 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 the applications of Presumptions (a)(ii), (h) and (j) as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the proceeds of the accounts in this case were not paid to the Account Owners 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 Claimants. 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 Owners whom she identified were her great-uncle and great-aunt, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owners whom she identified were her uncle and aunt, and those respective relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Albert Guttmann held one custody account and one demand deposit account, and Account Owner Camilla Guttmann held one custody 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 ICEP (the “ICEP Investigation”), in 1945 the average value of a custody account was SF 13,000.00 and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue was SF 28,140.00. 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 351,750.00 Swiss Francs.

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 [REDACTED 1] is entitled to one half of the total award amount, and Claimant [REDACTED 2] is entitled to one half of the 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 may 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
18 November 2004