

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3] and [REDACTED 4]

to Claimant [REDACTED 5]
represented by Chanan Graf

and to Claimant [REDACTED 6]

in re Account of Hs. Graf

Claim Number: 215961/MBC; 216538/MBC;¹ 501550/MBC; 501596/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Hans Graf, Kurt Graf, Marie Graf, and Ernst Steiniger;² the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the accounts of Julius and Emma Strauss;³ the claim of [REDACTED 5] (“Claimant [REDACTED 5]”) to the account of Marie Graf;⁴ and the claim of [REDACTED 4], née [REDACTED 4] (“Claimant [REDACTED 4]”) (together the

¹ Claimant [REDACTED 2] submitted one additional claim, which is registered under the Claim Number 400537. In a separate decision, the CRT treated Claimant [REDACTED 2]’ claim to the account of Arthur Strauss. See *In re Account of Arthur Strauss* (approved on 7 June 2006).

² In a separate decision, the CRT awarded the account published on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”) under the name of “Hans Graf” to Claimant [REDACTED 1]. See *In re Account of Hans Graf* (approved on 11 March 2003). In a further decision, the CRT treated Claimant [REDACTED 1]’s claim to the account of Marie Graf. See *In re Account of Marie Graf* (approved on 31 January 2007). The CRT did not locate an account belonging to Kurt Graf or Ernst Steiniger in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

³ In a separate decision, the CRT awarded the account of Julius Strauss to Claimant [REDACTED 2]. See *In re Account of Julius Strauss* (approved on 18 November 2004). In an additional decision, the CRT awarded the account of Walter Graf to Claimant [REDACTED 2]. See *In re Account of Walter Graf* (approved on 14 December 2005). The CRT did not locate an account belonging to Emma Strauss in the Account History Database prepared pursuant to the ICEP Investigation.

⁴ In a separate decision, the CRT treated the claim of Claimant [REDACTED 5] to the account of Marie Graf. See *In re account of Marie Graf* (approved on 4 June 2007).

“Claimants”) to the account of Hans Graf.⁵ This Award is to the unpublished account of Hs. Graf (the “Account Owner”) at 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

The Claimants, who are related, submitted Claim Forms identifying the Account Owner as Claimant [REDACTED 1]’s father, Claimant [REDACTED 6]’s late spouse, Claimant [REDACTED 5]’s brother, and Claimant [REDACTED 1]’ brother-in-law, Hans (Jan) Graf. Claimant [REDACTED 6] and Claimant [REDACTED 1] stated that Hans Graf, who was Jewish, was born on 15 September 1909 in Usti nad Labem (also known as Aussig an der Elbe),⁶ Czechoslovakia (today, the Czech Republic). In a sworn declaration, dated 1963, Claimant [REDACTED 6] indicated that she married Hans Graf on 3 May 1935 in Usti nad Labem and that they had two children, [REDACTED 1] (Claimant [REDACTED 1]) in 1943, and [REDACTED] in 1946. Claimant [REDACTED 6] further stated that her husband studied law at the German University of Prague and that he commenced work as an attorney after obtaining his doctorate in law in 1933. According to Claimant [REDACTED 6], in 1935 her husband also became a partner in his father’s company, *Otto Graf*, in Aussig, where he worked until 1938. Claimant [REDACTED 6] further stated that, in September 1938, shortly before the Sudetenland region of Czechoslovakia in which Aussig was located was annexed by Germany on 10 October 1938, she and her husband fled Aussig for England via Switzerland. Claimant [REDACTED 6] stated that in England her husband was not able to work as an attorney and that he eventually obtained work in a factory from April 1942 until July 1945, at which time he commenced a position at the British Control Commission in Germany. According to Claimant [REDACTED 6], shortly after his arrival in Germany, Hans Graf was involved in a car accident in Minden, Germany and died on 4 October 1945 as a result of his injuries.

In support of her claim, Claimant [REDACTED 6] submitted copies of various documents, including: 1) her birth certificate, indicating that she, [REDACTED 6], was born on 10 March 1912 in Usti nad Labem to [REDACTED] and [REDACTED]; 2) her residency certificate, dated 1931, indicating that she, [REDACTED 6], was born on 10 March 1912 in Usti nad Labem and that she still resided in that city;⁷ 3) a certificate, issued in 1943 by the Czechoslovak Ministry of National Defence in London, indicating that Jan Graf was born on 15 September 1909 in Usti nad Labem and that he resided in Great Britain; and (4) her sworn declaration, dated 1963, summarized in detail above.

⁵ As noted above, this account was previously awarded to Claimant [REDACTED 6]’s son, Claimant [REDACTED 1]. The CRT notes that at the time this account was awarded, Claimant [REDACTED 6] had not filed a claim, and so she was not included in that award.

⁶ In the Claimants’ claim forms and documents, and therefore also in this Award, the city names Usti nad Labem (or Usti) and Aussig are used interchangeably.

⁷ The CRT notes that [REDACTED 6], [REDACTED 6] and [REDACTED 6] are all variations of the same name.

In support of his claim, Claimant [REDACTED 5] submitted a copy of his birth certificate indicating that he was born on 23 July 1919 in Usti nad Labem to [REDACTED] and [REDACTED]. In support of his claim, Claimant [REDACTED 2] submitted copies of various documents, including: 1) his birth certificate, indicating that he was born on 15 February 1919 in Aussig (Usti) to [REDACTED] and [REDACTED], thereby indicating that he is Claimant [REDACTED 6]'s brother; and 2) a detailed family tree, indicating (*inter alia*) that Hans Graf, born in 1909, had a brother by the name of [REDACTED 5], who was born in 1919 (Claimant [REDACTED 5]).

Claimant [REDACTED 6], Claimant [REDACTED 2] and Claimant [REDACTED 5] indicated that they were born in Usti nad Labem on 10 March 1912, 15 February 1919 and 23 July 1919, respectively. Claimant [REDACTED 1] indicated that he was born on 2 November 1943. Claimant [REDACTED 2] is representing his brother, [REDACTED 3], who was born on 12 April 1913 in Usti nad Labem.

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form ("ATAG Form") in 1997, asserting his entitlement to a Swiss bank account owned by his father, Hans Graf.

Claimant [REDACTED 2] previously submitted an Initial Questionnaire ("IQ") to the Court in 1999, asserting his entitlement to a Swiss bank account owned by various members of his extended family, including Emma and Julius Strauss and Alfred and Berta Lederer.

Information Available in the Bank's Records

The Bank's records consist of a list of suspended accounts and printouts from the Bank's database. According to these records, the Account Owner was Hs. Graf. The Bank's records do not indicate the Account Owner's domicile.

The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, numbered 2673, which was suspended by the Bank on 30 June 1937, when it held a balance of 1.25 Swiss Francs ("SF"). The account remains suspended.

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 Owner

The Claimants' relative's name matches the unpublished last name and first name abbreviation of the Account Owner. The CRT notes that "Hs." is likely an abbreviation of the name Hans. The CRT further notes that the Bank's records do not contain any specific information about the Account Owner other than his name.

In support of their claims, the Claimants submitted documents, including a certificate issued in 1943 by the Czechoslovak Ministry of National Defense, referring to a Jan Graf, and Claimant [REDACTED 6]'s sworn declaration from 1963, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. The CRT notes that Jan is a Czech variation of the German name Hans.

The CRT notes that there are no other claims to this account. 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. The Claimants stated that the Account Owner was Jewish, that he resided in Aussig in the Sudetenland region of Czechoslovakia and that he fled Czechoslovakia for England in September 1938 just before the Sudetenland region was annexed by Germany on 10 October 1938. Claimant [REDACTED 6] submitted a sworn declaration, dated 1963, confirming this information.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father, Claimant [REDACTED 6]'s spouse, Claimant [REDACTED 5]'s brother and Claimant [REDACTED 2]' brother-in-law. These documents include: 1) Claimant [REDACTED 6]'s sworn declaration, dated 1963, indicating that Hans Graf was her husband and that Claimant [REDACTED 1] is their son; and 2) Claimant [REDACTED 6]'s and Claimant [REDACTED 2]' birth certificates, indicating that they had the same parents and that they are therefore siblings. The CRT further notes that Claimant [REDACTED 5] submitted his own birth certificate, indicating that he was born in Usti in 1919, and that the family tree submitted by Claimant [REDACTED 2] indicates that Claimant [REDACTED 5] is the brother of Hans Graf. The CRT notes that Claimant [REDACTED 1] indicated that his sister [REDACTED] is still alive, but that because she is not represented in the Claimants' claims, the CRT will not treat her potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was suspended by the Bank on 30 June 1937, and that it remains suspended today.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and Claimant [REDACTED 6]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 6] has plausibly demonstrated that the Account Owner was his father and Claimant [REDACTED 6] has plausibly demonstrated that the Account Owner was her spouse, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 6], as the Account Owner's spouse and child, have a better entitlement to the account than Claimant [REDACTED 5], the Account Owner's brother and descendant of the Account Owner's parents, and Claimant [REDACTED 2] and his brother, represented party [REDACTED 3], who are related to the Account Owner only by marriage.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 30 June 1937 was SF 1.25. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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. Consequently, the total award amount in this case is SF 49,375.00.

Division of the Award

According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case, Claimant [REDACTED 6] is the spouse of the Account Owner and Claimant [REDACTED 1] is their child. Accordingly, Claimant [REDACTED 6] and Claimant [REDACTED 1] are each entitled to one-half of the total award amount.

As noted above, Claimant [REDACTED 2], represented party [REDACTED 3], and Claimant [REDACTED 5] are not entitled to share in the award.

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
12 October 2007