

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

## **in re Account of Josef Guttman**

Claim Numbers: 772552/CU;<sup>1</sup> 208637/CU<sup>2</sup>

Award Amount: 53,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Louis and Hermina Politzer, née Guttman;<sup>3</sup> and the claims of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Moritz and Josef Guttman.<sup>4</sup> This Award is to the published account of Josef Guttman (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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

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<sup>1</sup> [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-009-2097, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 772552.

<sup>2</sup> [REDACTED 2] (“Claimant [REDACTED 2]”) submitted two Claim Forms which were registered under the Claim Numbers 208637 and 217156. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 208637.

<sup>3</sup> The CRT did not locate an account belonging to [REDACTED] and/or [REDACTED], née [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “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”).

<sup>4</sup> In a separate decision, the CRT awarded the account of Moritz Guttman to Claimant [REDACTED 2]. See *In re Account of Moritz Guttman* (approved 27 December 2002).

## Information Provided by the Claimants

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) to the Court identifying the Account Owner as her maternal uncle Josef Guttmann, and Claimant [REDACTED 2] submitted a Claim Form and two IQs identifying the Account Owner as her paternal uncle Josef Guttmann. Claimant [REDACTED 1] and Claimant [REDACTED 2], who are cousins, indicated that Josef Guttmann, who was Jewish, was born on 22 February 1907 in Bártfa, Hungary (today Bardejov, Slovakia). Claimant [REDACTED 2] indicated that Josef Guttmann was one of six children of her grandparents, [REDACTED] and [REDACTED]; those children were [REDACTED](Claimant [REDACTED 2]’s father), [REDACTED].[REDACTED] (Claimant [REDACTED 1]’s mother), [REDACTED],[REDACTED] and [REDACTED].

Claimant [REDACTED 1] and Claimant [REDACTED 2] indicated that their grandfather [REDACTED] owned a silk stocking factory named *Brüder Guttmann Strumpffabrik*, which was located both in Vienna, Austria and in Budapest, Hungary, and which was later co-owned and managed by three of his children: Josef, [REDACTED], and [REDACTED]. Claimant [REDACTED 2] indicated that Josef Guttmann resided in Vienna at Gonzaga Gasse.

Claimant [REDACTED 2] stated that prior to the Second World War, her family discussed travel to Switzerland to deposit funds in Swiss bank accounts.

Claimant [REDACTED 1] explained that, after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), [REDACTED], who was Jewish, fled from Vienna to Budapest with three of his children, including his son [REDACTED], who was murdered by the Nazis, and that her grandfather’s factory was aryanized.

Claimant [REDACTED 2] explained that she was imprisoned in Auschwitz and that her parents were murdered by the Nazis in 1944.

Claimant [REDACTED 1] indicated that she was born on 5 June 1936 in Budapest, and Claimant [REDACTED 2] indicated that she was born on 22 June 1922 in Budapest.

Claimant [REDACTED 2] previously submitted two IQs to the Court in 1999 and two ATAG Ernst & Young claim forms in 1998, asserting her entitlement to Swiss bank accounts owned by Moritz and Josef Guttmann.

## Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Josef Guttmann, who resided in Budapest, Hungary. The Bank’s record indicates that the Account Owner held two demand deposit accounts, both of which were opened on 25 January 1939.

The Bank’s record indicates that one demand deposit account was closed on 20 April 1940 and that the other demand deposit account was closed on 10 March 1949. The amount in the

accounts on the dates of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his 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, 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, there are documents concerning the assets of [REDACTED], numbered 50240. These documents indicate that [REDACTED] was born on 26 January 1889, that he was Jewish, that he was a stocking manufacturer, that he resided at Franz Josef Kai 49/III/18, Vienna I, Austria, that he was married to [REDACTED], née [REDACTED], and that he was a Hungarian citizen.

According to these records, [REDACTED] owned, together with his brothers [REDACTED], Josef and [REDACTED], a stocking manufacturing company, *Brüder Guttman*, which was located at Schaidgasse, Vienna XVI, Austria. These records also indicate that the father, [REDACTED], was a silent partner of the company.

These records indicate that Josef Guttman, who was also Jewish and a Hungarian citizen, resided at Gonzagagasse 13 in Vienna in 1938, and that he owned 22.85 percent of the company.

According to these records, [REDACTED] and his brothers' company were the subjects of an investigation by the German auditing and trust company (*Deutsche Wirtschaftsprüfungs- und Treuhandgesellschaft*) in Berlin regarding alleged questionable accounting practices and tax evasion. In its report, dated 22 July 1938, which is included in the 1938 Census files, the auditors stated that [REDACTED]'s "Jewish advisor" wrote to the authorities and offered to pay any overdue taxes so that [REDACTED] could be granted "tax amnesty." The auditors stated that in May 1938, [REDACTED] admitted evading taxes totaling 150,000.00 Austrian Schillings ("ATS"). A report to the finance office (*Finanzamt-Vermögensverkehrsstelle*) on 30 June 1938 led to [REDACTED]'s arrest on 5 July 1938. The auditors estimated that [REDACTED] and his three brothers (the joint owners of the company) would be required to pay a penalty of approximately 50,000.00 Reichsmark ("RM"), not only for the alleged crime of tax evasion, but also for other alleged offences. Furthermore, the report indicates that the total value of the Guttman company was RM 33,917.36, from which the above-mentioned penalty had already been deducted. The records indicate that [REDACTED]'s detention lasted until August or September 1938.

The CRT notes that [REDACTED]'s asset declaration is dated 2 August 1938, while he was still in detention. In the documents, he indicated that he owned 12.73 percent of the stocking manufacturing company *Brüder Guttman*, and that he could not provide an accurate listing of his assets and their value without being able to use his account books. Included among the numerous letters and memoranda in [REDACTED]'s file is a letter, dated 19 November 1938, stating that [REDACTED] and his three brothers, [REDACTED], Josef and [REDACTED] had already left the country; a blank form for the mandatory transfer of foreign securities to the *Reichsbank* dated 12 December 1938; an internal memorandum from the Public Prosecutor's

Office at the Court of Second Instance (*Staatsanwaltschaft beim Landgericht*), Vienna, dated 7 February 1940, indicating that the temporary administrator (*kommisarischer Verwalter*) of the Guttman company had made a formal statement that the criminal charges against the Guttman brothers should be dropped, as they were in prison when they were required to submit their incomplete census forms, and that other bookkeeping irregularities had been detected for which the Guttman brothers were not responsible; as well as a decision of the Public Prosecutor's Office, dated 18 March 1940, not to continue the prosecution of the Guttman brothers.

These records make no mention of assets held in a Swiss bank account.

## **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

Claimant [REDACTED 1] and Claimant [REDACTED 2]'s relative's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 1] and Claimant [REDACTED 2] identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

The CRT notes that the name Joseph Guttman appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

The CRT also notes that the Claimants filed IQs and ATAG Forms, asserting their entitlement to Swiss bank accounts owned by members of the Guttman family, prior to the publication of the ICEP List. This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence of 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. Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that the Account Owner was Jewish, and that he resided in Vienna, Austria, and Budapest, Hungary, during the Second World War.

### The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner. The CRT notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's record; and that Claimant [REDACTED 1] filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 1], prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 1] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as she has asserted in her Claim Form.

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner. The CRT notes that Claimant [REDACTED 2] identified unpublished information about the Account Owner as contained in the Bank's records; and that Claimant [REDACTED 2] filed two IQ's in 1999 and two ATAG Ernst & Young claim form in 1998 with the Court, identifying the relationship between the Account Owner and Claimant [REDACTED 2], prior to the publication in February 2001 of the ICEP List. The CRT further notes that Claimant [REDACTED 2] submitted a copy of her passport, which provides independent verification that Claimant [REDACTED 2] bears the same name as the Account Owner, and that she resided in Budapest.

### The Issue of Who Received the Proceeds

The Bank's record indicates that the accounts were closed on 20 April 1940 and 10 March 1949. Given that the Austrian Archive records indicate that the Account Owner fled Austria for Hungary in 1938; that there is evidence in the Austrian Archive records that the Account Owner was persecuted by the Nazis in Austria; that the Account Owner then resided in Nazi-allied Hungary during the Second World War; that there is no record of the payment of the Account Owner's accounts to him; that there is no record that the Account Owner or his representatives were in contact with the Bank after the War about the account closed on 10 March 1949; that the Account Owner and his 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 (h), (i), and (j), as provided in Article 28 of 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 claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly demonstrated that the Account Owner was their uncle, and those relationships justify 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 accounts.

### Amount of the Award

In this case, the Account Owner held two demand deposit accounts. 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"), for a total combined value for two accounts of SF 4,280.00. 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 53,500.00.

### Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2], who are each descendants of the Account Owner's parents, are each 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 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  
25 November 2008