

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Account of Pacifico Astrologo and Giuditta Astrologo

Claim Number: 734213/AX²

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of [REDACTED]³ and Pacifico Astrologo. This award is to the published account of Pacifico Astrologo (“Account Owner Pacifico Astrologo”) and Giuditta Astrologo (“Account Owner Giuditta Astrologo”) (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 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 an Initial Questionnaire (IQ) with the Court in 1999 identifying Account Owner Pacifico Astrologo as her brother Pacifico Astrologo. The Claimant

¹ On 6 May 2004, the CRT was informed by the Claimant’s great-niece, [REDACTED], that the Claimant passed away on 16 November 2002. [REDACTED] submitted the Claimant’s death certificate and inheritance documents relating to the Claimant. According to the inheritance documents, the Claimant’s heirs are [REDACTED], who was born in Rome on 10 February 1959, and [REDACTED], who was born in Rome on 11 June 1961.

² The Claimant did not submit a Claim Form to the Claims Resolution Tribunal. However, in 1999 she submitted an IQ, numbered 0004118, 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 734213.

³ The CRT did not locate an account belonging to [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”). The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

indicated that her brother, who was Jewish, resided in Rome, Italy, at Viale Glorioso 14. The Claimant indicated that her siblings transferred assets to Switzerland prior to the Second World War. In a telephone conversation with the CRT on 6 May 2004, the Claimant's great-niece, [REDACTED], stated that her great-uncle, Pacifico Astrologo, went into hiding during the Second World War, but remembers hearing him speak of Swiss Bank accounts after the War. Mrs. [REDACTED] also stated that she remembers that some of her family members used the last name Piperno. The Claimant indicated that Pacifico Astrologo died in 1980 in Rome. In support of the Claimant's claim, the Claimant's great-niece submitted the death certificate of Pacifico Astrologo, indicating that he was born in 1903, and that he died in 5 May 1980 in Rome. The Claimant stated that she was born on 8 February 1901.

Information Available in the Bank's Records

The Bank's records consist of an account card and a printout from the Bank's database. According to these records, the Account Owners were Pacifico Astrologo and *Frau* (Mrs.) Giuditta Astrologo, née Piperno, both residing in Italy. The Bank's records show that the Account Owners held an account, numbered 20109, the type of which is not indicated. 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") reported that the account was opened on 3 July 1943 and that there was no evidence of activity on the account after 1945. The Bank's records indicate that the account was closed no later than November 1949. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's brother's name and country of residence match the published name and country of residence of Account Owner Pacifico Astrologo. The Claimant's great-niece indicated that she recognized the name Piperno as being the last name of several family members. This information is consistent with published information about Account Owner Giuditta Astrologo's maiden name.⁴ Furthermore, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Giuditta Astrologo, from Rome,⁵ and indicates that she perished in the Holocaust in 1943. The information in the CRT's database of victims of Nazi persecution about Giuditta

⁴ The CRT notes that the Claimant's great-niece was unable to specifically identify Account Owner Giuditta Astrologo, but finds that the Claimant's great-niece was born after the Second World War and may not be aware of the names of all of the members of the Astrologo family.

⁵ The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Astrologo is consistent with the information provided by the Claimant about Account Owner Pacifico Astrologo's city of residence. In support of the Claimant's Claim, the Claimant's great-niece submitted the death certificate of Pacifico Astrologo, indicating that he was born in 1903, and that he died on 5 May 1980 in Rome, providing independent verification that the person who is claimed to be the Account Owner had the same name and country of residence as those recorded in the Bank's records as the name and country of residence of the Account Owner.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Pacifico Astrologo, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant 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 relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant 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 the Claimant.

The CRT notes that the names Pacifico Astrologo and Giuditta Astrologo appear only once each on the February 2001 published list of accounts determined by ICEP to be probably those of victims of Nazi persecution. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims 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 Pacifico Astrologo was Jewish, and that he was forced to live in hiding in Italy during the Second World War. As noted above, a person named Giuditta Astrologo, was included in the CRT's database of victims, where it was noted that she perished in the Holocaust.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Pacifico Astrologo by submitting specific information demonstrating that Account Owner Pacifico Astrologo was her brother. The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between Account Owner Pacifico Astrologo and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant's great-niece submitted the death certificate of Pacifico Astrologo, indicating that he was born in 1903, and that he died on 5 May 1980 in Rome. Furthermore, the CRT notes that this is a document which most likely only a family member would possess. Finally, the CRT notes that the Claimant's great-niece submitted the death certificate of the Claimant, indicating the Claimant's

name as Genoeffa Astrologo, which provides independent verification that the Claimant bore the same family name as the Account Owner.

The Issue of Who Received the Proceeds

Given that Account Owner Pacifico Astrologo was in hiding in Italy during the Second World War, and that Giuditta Astrologo perished during the Holocaust; that there is no evidence of activity on the account after 1945; that the Bank's records do not indicate an exact closure date for the account; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their 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 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 Estate 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 Account Owner Pacifico Astrologo was her brother, and that relationship justifies 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 account.

Amount of the Award

In this case, the Account Owners held one account of unknown type. 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 an account of unknown type was SF 3,950.00. 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 49,375.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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