

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by [REDACTED]
and Claimant [REDACTED 2]

in re Account of David Azriel

Claim Numbers: 211888/MBC; 741464/MBC

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of David Azriel (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case Claimant [REDACTED 1] has, the Claimants, any relatives other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his father, David Azriel (or Asriel), a Yugoslavian national who was born in Belgrade, Yugoslavia, on 4 November 1903, to Danilo Azriel and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that his father was married to [REDACTED], née [REDACTED], in Buenos Aires, Argentina, on 7 September 1950. Claimant [REDACTED 1] further stated that his father owned a women's clothing factory called *Fabrique de bonneterie Sport*, which was located in Belgrade. According to Claimant [REDACTED 1], his father, who was Jewish, lived in Belgrade from 1931 until 1940, when he and his family fled to South America via Italy and Spain, when the Nazis started bombing the city. Claimant [REDACTED 1] indicated that his father settled in Buenos Aires, Argentina, where he spent the rest of his life until his death on 30 September 1964. Claimant [REDACTED 1] indicated that his father's last street address was

Fco. Lacroze 2442, Buenos Aires.

In support of his claim, Claimant [REDACTED 1] submitted documents, including his own and his parents' birth certificates, identifying the Claimant's father as David Azriel (Asriel), son of Danilo and [REDACTED] Azriel; as well as his parents' family booklet and death certificates. Claimant [REDACTED 1] also submitted official documents issued by the Yugoslavian Embassy in Buenos Aires on 6 November 1942 and 31 December 1942, demonstrating that Claimant [REDACTED 1]'s parents' last name was "Asriel," and that this name could also be spelled "Azriel." Claimant [REDACTED 1] indicated that he was born in Belgrade on 10 July 1936, and that his late sister, [REDACTED], née [REDACTED], passed away in 1961.

Information Submitted by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire identifying the Account Owner as his maternal uncle, David D. Azriel, who was born in approximately 1900. Claimant [REDACTED 2] indicated that his uncle resided in Belgrade, Yugoslavia, where he owned a business together with his family. According to Claimant [REDACTED 2], his uncle was Jewish and fled to Argentina via Italy when the Nazis invaded Yugoslavia. Claimant [REDACTED 2] further stated that his uncle settled in Buenos Aires, where he resided until his death in 1959. Claimant [REDACTED 2] stated that his uncle's last street address was Federico Lacroze 2442, Buenos Aires. Claimant [REDACTED 2] indicated that he was born on 15 June 1941.

Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database and a list of suspended accounts. According to these records, the Account Owner was David Azriel, or Asriel, a Yugoslavian national, who resided in Paris, France, at 24, rue de la Chaussée d'Antin, and the Power of Attorney Holder was Danilo Azriel. The Bank's records indicate that the Account Owner held a demand deposit account, numbered 80188 D.R, and a custody account, numbered 80188, both of which were opened in 1938.

The Bank's records indicate that the demand deposit account was transferred to a suspense account for dormant assets on 31 December 1943. The amount in the demand deposit account on the date of its transfer was 15.20 Swiss Francs. The demand deposit account remains open and dormant.

The Bank's records do not show when the custody account was closed, or to whom it was paid, nor do these records indicate the value of this account. The CRT notes that 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") did not report this account. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the custody

account and received the proceeds themselves.

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

The Claimants have plausibly identified the Account Owner. Claimant [REDACTED 1]'s father's name and Claimant [REDACTED 2]'s uncle's name matches the published name of the Account Owner, and Claimant [REDACTED 1]'s grandfather's name matches the published name of the Power of Attorney Holder. The Claimants indicated that their relative was a Yugoslavian national, which matches unpublished information about the Account Owner contained in the Bank's records. The Claimant also identified that his father's name could be spelled as either "Azriel" or "Asriel," which matches unpublished information contained in the Bank's records. In support of his claim, Claimant [REDACTED 1] submitted documents, including his own and his father's birth certificates, identifying his father as David Azriel (Asriel), son of Danilo and [REDACTED] Azriel; his parents' family booklet and death certificates; and official documents, issued by the Yugoslavian Embassy in Buenos Aires on 6 November 1942 and 31 December 1942, showing that his father's name could be spelled either "Azriel" or "Asriel," and that he was a Yugoslavian national, providing independent verification that the person who is claimed to be the Account Owner had the same name and nationality recorded in the Bank's records as the name and nationality of the Account Owner. The CRT notes that given that Claimant [REDACTED 1] identified the Account Owner's nationality and the variation in the spelling of his last name, which is supported by the documents submitted by the Claimant and matches unpublished information contained in the Bank's records, it is plausible that the Account Owner used an address in Paris possibly related to his women's clothing factory, which supports the credibility of the Claimant's identification of the Account Owner. The CRT further 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 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, and that he fled to South America when the Nazis invaded Yugoslavia.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting documents, including his and his father's birth certificates, demonstrating that he is the Account Owner's son. Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by providing specific biographical information, demonstrating that he is the Account Owner's nephew by marriage.

The Issue of Who Received the Proceeds

Regarding the demand deposit account, the Bank's records indicate that it was transferred to a suspense account for dormant assets on 31 December 1943 and remains open and dormant.

Regarding the custody account, given that the Account Owner fled to South America in 1940; that the Account Owner's demand deposit account remains open and dormant; that there is no record of the payment of the Account Owner's custody account to him, the Power of Attorney Holder or their heirs; that the Account Owner or his heirs would not have been able to obtain information about his 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 (f), (h), (i) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the proceeds of the custody account 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 Claimant [REDACTED 1]. 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 Owner was his father, and that relationship justifies an Award. Finally, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the demand deposit account, and that it is plausible that neither the Account Owner nor his heirs received the proceeds of the custody account. The CRT notes that Claimant [REDACTED 1], as the Account Owner's son, has a better entitlement to the accounts than Claimant [REDACTED 2], the Account Owner's nephew.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. Regarding the demand deposit account, the Bank's records indicate that the value of this

account was 15.20 Swiss Francs as of 31 December 1943. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs.

Regarding the 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs.

Consequently, the total 1945 value of the accounts at issue is 15,140.00 Swiss Francs. 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 189,250.00 Swiss Francs.

Division of the Award

According to the principles of distribution set forth in Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendant of the Account Owner who have submitted a claim, in equal shares by representation. As noted above, Claimant [REDACTED 1], as the child of the Account Owner, has a better entitlement to the account than Claimant [REDACTED 2], who is the Account Owner's nephew. Consequently, Claimant [REDACTED 1] is entitled to the total 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
22 December 2003