

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Francis Durandy
represented by Christian Durandy

in re Account of Germaine Durandy, *Madame* Edouard Otlet and Félix Durandy

Claim Number: 501588/AX

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Francis Durandy (the “Claimant”) to the account of Felix Durandy. This Award is to the published account of Germaine Durandy (“Account Owner Germaine Durandy”), *Madame* Edouard Otlet (“Account Owner Otlet”), and Félix Durandy (“Account Owner Félix Durandy”) (together the “Account Owners”) at the Geneva branch of the [REDACTED] (the “Bank”).¹

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owner Félix Durandy as his father, Félix Durandy; and Account Owner Germaine Durandy and Account Owner Otlet as his father’s sisters, Germaine Durandy and Andrée Otlet, née Durandy, respectively. According to the Claimant, his father’s parents, Gabrielle Durandy-Daelman and André Daelman, had three children: Felix, who was born on 15 February 1895 in Nice, France; Germaine, and Andrée, who was married to Edouard Otlet. The Claimant indicated that his father was married to Anne Durandy, née Rosenberg, who was Jewish. The Claimant indicated that his father’s family, who were Christian, had homes in both Paris and in the south of France, where the Durandy family was a prominent and wealthy family. The Claimant further explained that prior to residing in Paris, the Claimant’s father resided in St. Cloud, France. According to the Claimant, his father worked as a *courtier de change* (foreign exchange broker) in a bank between 1932 and 1939. The Claimant indicated that his parents were arrested in 1944 and that his mother was interrogated by the French police in the presence of the Gestapo. The Claimant stated that the

¹ The CRT notes that, on the February 2001 list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP List”), Germaine Durandy, *Madame* Edouard Otlet and Félix Durandy were published separately as Account Owners. The Bank’s records indicate that they held the accounts jointly.

French police and Gestapo accused his parents of using false identity papers and detained them until the family paid a substantial fee for their release. The Claimant indicated that his father died on 19 August 1974 in Fontainebleau, France, and that his mother died on 13 July 1961 in Paris.

In support of his claim, the Claimant submitted his father's *livret de famille* (family book) indicating that the Claimant's father was Felix Joseph Marie Durandy; and his father's death certificate indicating that Félix Durandy was survived by his son, Francis Leon Durandy, and his wife, Anne Rosenberg. The Claimant indicated that he was born on 4 November 1926 in Paris.

Information Available in the Bank's Records

The Bank's records consist of a customer card and printouts from the Bank's database. According to these records, the Account Owners were *Madame* (Mrs.) Germaine Durandy, *Madame* (Mrs.) Edouard Otlet, and *Monsieur* (Mr.) Félix Durandy. The Bank's records indicate that *Madame* (Mrs.) Gabrielle Durandy-Daelman had the power to dispose of the Account Owners' accounts during her lifetime.² The Bank's records indicate that Gabrielle Durandy-Daelman, who was divorced, resided at 4 bis rue Gounod in St. Cloud, France and that correspondence from the Bank was to be sent to her. The Bank's records further indicate that Account Owner Germaine Durandy also resided in St. Cloud, and 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 Account Owner Félix Durandy resided in St. Cloud as well. There is no information about Account Owner's Otlet's address.

The Bank's records indicate that the Account Owners jointly owned one custody account and two demand deposit accounts, one in Swiss Francs ("SF") and one in Belgian Francs, and that all the accounts were held under the numbered designation R.O. 14362.

The Bank's records indicate that the accounts were opened on 17 December 1930, and were closed on 13 March 1933. The Bank's records contain a handwritten notation, made on 5 April 1933, indicating that after the closure of the accounts, some proceeds from the securities held by the Account Owners, in the amount of approximately SF 125.00, remained at the Bank. The records further indicate that the Bank reopened a demand deposit account in order to hold this balance. According to the Bank's records, on 31 December 1936, the account was transferred to the Bank's suspense account for dormant assets, where it remains. The Bank's records indicate that the account held a balance of SF 125.75 as of 31 December 1936.

² The CRT notes that Gabrielle Durandy-Daelman was published as holding power of attorney over the accounts. Upon careful review, the CRT has concluded that Gabrielle Durandy-Daelman did not hold a power of attorney over the accounts, but had the right to dispose of the accounts during her lifetime.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's father's name and the names of his aunts match the published names of the Account Owners. The Claimant's grandmother's name matches the published name of the person who had disposition rights to the accounts. The Claimant indicated that his father resided in St. Cloud before moving to Paris, which matches published information contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his father's *livret de famille*, indicating that the Claimant's father was Felix Joseph Marie Durandy; and his father's death certificate indicating that Félix Durandy was survived by his son, Francis Leon Durandy, and his wife, Anne Rosenberg, providing independent verification that the person who is claimed to be Account Owner Felix Durandy had the same name recorded in the Bank's records as the name of Account Owner Felix Durandy. The CRT notes that there are no other claims to this account.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Felix Durandy was a Victim of Nazi Persecution. The Claimant stated that Account Owner Felix Durandy's wife was Jewish, and that he and his wife were arrested by the French police and were detained and questioned by the French police and the Nazi Gestapo. The Claimant further indicated that his family was forced to pay a fee for the release of Account Owner Felix Durandy and his wife.

The CRT notes that the Claimant has not provided any evidence demonstrating that Account Owner Germaine Durandy and Account Owner Otlet were Victims of Nazi Persecution as defined by the Settlement Agreement. However, given that their sibling was married to a Jewish woman, the CRT finds it plausible that they may have been targeted for persecution.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Felix Durandy was the Claimant's father, and that Account Owner Germaine Durandy and Account Owner Otlet were the Claimant's aunts. These documents include his father's *livret de famille*, indicating that the Claimant's father was Felix Joseph Marie Durandy. The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

With regard to the custody account and two demand deposit accounts, held under the numbered designation R.O. 14362, the CRT notes that the accounts were closed on 13 March 1933, prior to

the Nazi occupation of France in March 1940. Accordingly, the CRT concludes that the Account Owners closed these accounts and received the proceeds themselves, but for the proceeds from certain securities that had been held in the custody account. As noted above, the Bank's records indicate that the proceeds from these securities were placed in a demand deposit account, and that this account, to which the Claimant is entitled, remains in the Bank's suspense account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that Account Owner Felix Durandy was his father, and that Account Owner Germaine Durandy and Account Owner Otlet were his aunts, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owners, the person who had disposition rights to the accounts, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Bank's records indicate that the Account Owners jointly owned one custody account and two demand deposit accounts, and that the accounts were closed on 13 March 1933. The records further indicate that, after the closure of the accounts, some proceeds from the securities held by the Account Owners remained at the Bank, and that the Bank reopened a demand deposit account to hold this balance, which totaled SF 125.00. The Bank's records indicate that the value of the account as of 31 December 1936 was SF 125.75. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. In this case, the CRT finds that the closure of the Account Owners' other accounts and the fact that the Bank reopened the account at issue do not definitively demonstrate that the Account Owners severed the client relationship with the Bank entirely, and that these events therefore do not constitute plausible evidence sufficient to rebut the value presumptions set forth in Article 29 of the Rules. The CRT therefore determines the amount in the account to be SF 2,140.00. 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 26,750.00.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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
10 August 2005