

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
also acting on behalf of [REDACTED], Claimant [REDACTED 2],
Claimant [REDACTED 3] and Claimant [REDACTED 4]

in re Account of Léon I. Ergas

Claim Numbers: 207979/MBC, 210460/MBC, 215671/MBC, 300031/MBC

Award Amount: 222,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), [REDACTED 3] (“Claimant [REDACTED 3]”), and [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the account of Léon I. Ergas (the “Account Owner”) at the Liebefeld branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 3] has 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 each submitted a Claim Form identifying the Account Owner as their father, Léon Isaac Ergas, who was born on 4 May 1902 in Thessaloniki, Greece, and was married to [REDACTED], née [REDACTED], on 5 November 1937 in Marseille, France. The Claimants indicated that their father was a stock exchange broker, who resided at 15, avenue du Président-Wilson in Paris, France, from 1936 to 1939, and at 14, rue de Longchamps in 1939. The Claimants stated that their father traveled to Switzerland on business and held both French and Greek citizenship. The Claimants also indicated that their family held a Swiss bank account under the name of a company [REDACTED]. Claimant [REDACTED 3] stated that, at the end of 1939, when he was nine months old, his father, who was Jewish, went from Paris to Lisbon, Portugal, to avoid possible Nazi persecution if there was an invasion of France, and that his father stayed in Portugal until 1942. The Claimants indicated that in 1942 their father went to Buenos Aires, Argentina, and in 1944 to Montevideo, Uruguay, where he died on 5 November 1947. In support of their claims, the Claimants submitted their birth certificates, their parents’ marriage certificate and a document bearing their father’s signature. The Claimants stated that Claimant [REDACTED 3] was born on 26 February 1939 in Neuilly-sur-Seine, France; Claimant [REDACTED 1] was born on 27 July 1940 in Lisbon; Claimant [REDACTED 2] was born on 17

October 1943 in Buenos Aires; and Claimant [REDACTED 4] was born on 17 July 1947 in Montevideo. The Claimants also stated that they have one other sibling, [REDACTED], who has not submitted a claim and is not being represented by the Claimants. Claimant [REDACTED 1] is representing [REDACTED], who is the husband of her late sister, [REDACTED], who died in 1995.

Information Available in the Bank Records

The bank records consist of a letter from the Account Owner to the Bank, dated 17 June 1937, and printouts from the Bank's database. According to the letter, the Account Owner was Léon I. Ergas, who resided at 15, avenue du Président Wilson, in Paris, France. This letter indicates that the Account Owner held a custody account, numbered 115618, in which he deposited 37 shares, worth 500.00 Swiss Francs each, of the *Groupement de Gérance SA (Grogersa)*, located at Münzgraben 6 in Bern, Switzerland.

The bank records do not show when the account was closed, the value of the account at the time of closure, or who closed the account. 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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the bank records that the Account Owner or his heirs closed the 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 four claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their father's name and city of residence match the published name and city of residence of the Account Owner. The Claimants indicated that their father resided at 15, avenue du Président-Wilson in Paris, France, which matches unpublished information about the Account Owner contained in the bank records. Finally, the Claimants submitted a sample of their father's signature, which matches the signature sample contained in the bank records. The CRT also notes that there are no other claims to this account.

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 left Paris to go first to Portugal and later to Argentina, because of the threat of Nazi persecution of Jews and the possibility of the Nazi invasion of France.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents, including their own birth certificates and their parents' marriage certificate, demonstrating that they are his children.

The Issue of Who Received the Proceeds

Given the application of Presumptions (h) and (j) contained 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, the Claimants have plausibly demonstrated that the Account Owner was their father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a custody account. The bank records indicate that the custody account held 37 shares valued at 500 Swiss Francs each for a total value of 18,500.00 Swiss Francs as of 17 June 1937. The present value of the amount of the award is determined by multiplying the historic value by a factor of 12, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is 222,000.00 Swiss Francs.

Division of the Award

According to Article 23 of the Rules, children of Account Owners who have submitted a claim are entitled to equal shares of the Award, and in cases where a child of the Account Owner is deceased and that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner. In this case, the Claimants and represented party [REDACTED], the husband of the Claimants' late sister, are each entitled to receive one-fifth of 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
April 24, 2003