

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Accounts of Michel S. Ezechiel and Olga Ezechiel

Claim Numbers: 402240/DE; 402241/DE; 402238/DE; 402239/DE

Award Amount: 53,500.00 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 published account of Michel S. Ezechiel (“Account Owner Michel S. Ezechiel”) and Olga Ezechiel (“Account Owner Olga Ezechiel”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”), and to the published account of Account Owner Michel S. Ezechiel, over which Account Owner Olga Ezechiel held Power of Attorney, at the Geneva branch of 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 Claimants

The Claimants, who are brothers, submitted substantially similar Claim Forms identifying the Account Owners as their paternal aunt, Olga Ezechiel, née Recanati, and her husband, Michel S. Ezechiel. The Claimants stated that their aunt was born in 1895 in Salonica (Thessalonica), Greece, and was married in 1913 in Salonica to Michel S. Ezechiel, who was also born in Salonica. The Claimants explained that their aunt and uncle, who were Jewish, had three daughters: [REDACTED], [REDACTED] and [REDACTED]. According to the Claimants, their uncle worked as a banker, holding the position of director at the *Banque de Salonique*, and served as the honorary Vice-Consul of the Netherlands in Salonica. The Claimants stated that their aunt and uncle and their three children were deported in 1943 to Auschwitz, where they perished. In support of his claim, Claimant [REDACTED 2] submitted a copy of his own passport indicating his family name and Greek origin.

Claimant [REDACTED 1] indicated that he was born on 30 March 1932 in Salonica. Claimant [REDACTED 2] indicated that he was born on 17 September 1926 in Salonica.

Information Available in the Bank's Record

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 any accounts belonging to Michel S. Ezechiel and Olga Ezechiel during their investigation of the Bank. The documents evidencing accounts belonging to Michel S. Ezechiel and Olga Ezechiel were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Michel S. Ezechiel, numbered 64, and Michel S. Ezechiel and Olga Ezechiel, numbered 65.

Account Owner Michel S. Ezechiel

The records numbered 64 from the Swiss Federal Archive indicate that the Account Owner was Michel S. Ezechiel and that the Power of Attorney Holder was Olga Ezechiel, née Recanati. According to these records, Account Owner Michel S. Ezechiel resided in Salonica. The records further indicate that the Bank was instructed to send correspondence to Madame E. Jomtov at 10 Rue Pitacou in Salonica.

These records indicate that Account Owner Michel S. Ezechiel held one demand deposit account. The records further indicate that on 1 September 1963 the account had a balance of 1,090.00 Swiss Francs ("SF").

According to a document dated 13 January 1966, the Federal Division of Justice (*Division Fédérale de la Justice*) appointed Jean-Rodolphe Christ as the custodian of this account on 4 January 1966. In a letter dated 17 February 1970, Jean-Rodolphe Christ indicated that he had not received information from the Bank regarding the current balance of the account. On 21 April 1970, the Guardianship Authorities of the Canton of Geneva (*A la Chambre des Tutelles du Canton de Genève*) requested that Jean-Rodolphe Christ ascertain the current balance and fees for M. Ezechiel's account.

In a letter to the Guardianship Authorities from the Registration Office for Assets of Missing Foreigners at the Federal Department of Justice (the "Registration Office"), dated 22 October 1970, the Registration Office noted that accounts with balances under SF 1,000.00 were to be transferred to an unclaimed asset fund in Bern, called the "Heirless Assets, Future Fund" (*Erblose Vermögen, Künftiger Fonds*) which collected and distributed unclaimed assets in accordance with the Federal Decree. The letter noted that the assets in Michel S. Ezechiel's account had not been transferred to this fund. Letters dated 28 October 1970 and 2 November

1970 indicate that the Guardianship Authorities of the Canton of Geneva were looking into the matter and that the account should be transferred shortly. According to a letter from the Registration Office dated 11 December 1970, the custodian was officially requested to transfer the account to the fund, as his custodial duty was coming to an end.

Account Owners Michel S. Ezechiel and Olga Ezechiel

The records numbered 65 from the Swiss Federal Archive indicate that the Accounts Owners were Michel S. Ezechiel and Olga Ezechiel, who resided in Salonica. The records indicate that in 1935 the Bank was instructed to send correspondence to Mrs. E. Yomtov at 10 Rue Pitacou in Salonica, and that, in 1939 the correspondence address was changed to: Mr. Henri Torres of 28 Rue Georges Sand in Paris, France.

The Swiss Federal Archive records indicate that the Account Owners held a demand deposit account, numbered 7300. These records further indicate that on 1 September 1963 the account had a balance of SF 518.45.

According to a document dated 10 December 1966, the Guardianship Authorities of the city of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) appointed Dr. H. Häberlin trustee of this account. The records further indicated that the last contact the Bank had with the Account Owners took place prior to the end of the Second World War.

The records from the Swiss Federal Archive do not indicate the ultimate disposition of this account. There is no evidence in the records that the Account Owners or their 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 Owners

The Claimants' paternal aunt and uncle's names match the published of the Account Owners. The Claimants also identified the Account Owners' city and country of residence, as well as the relationship between the Account Owners, which matches unpublished information contained in the Swiss Archive records.

The CRT notes that the names Michel S. Ezechiel and Olga Ezechiel-Recanati appear only once on the List of Account Owners Published in 2005 (the "2005 List"). The CRT notes that there

are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, and that they, along with their children, were deported to Auschwitz, where they perished.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated they are related to the Account Owners by submitting specific information, demonstrating that the Account Owners were the Claimants' paternal aunt and uncle. There is no information to indicate that the Account Owners have other surviving heirs.

The CRT notes that the Claimants identified unpublished information about the Account Owners as contained in the Swiss Archive Records. The CRT further notes that Claimant [REDACTED 2] submitted a copy of his own passport, which provides independent verification that the Claimants' family name matches the maiden name of Account Owner Olga Ezechiel, and that they resided in Greece. 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 Claimants as family members, and all of this information supports the plausibility that the Claimants are related to the Account Owners, as asserted in their Claim Form.

The Issue of Who Received the Proceeds

The records from the Swiss Federal Archive indicate that the account of Michel S. Ezechiel, over which Olga Ezechiel, née Recanati, held power of attorney, was transferred to the Heirless Assets Future Fund (*Erblose Vermögen, Künftiger Fonds*).

The records from the Swiss Federal Archive do not indicate the ultimate disposition for the account of Michel S. Ezechiel and Olga Ezechiel. Given that the account was registered in the 1962 Survey, and that it therefore existed until at least that time; that the Account Owners were Jewish and in 1943 were deported to Auschwitz, where they perished; that there is no record of the payment of the Owners' accounts to them nor any record of a date of closure of the accounts; that the Account Owners' heirs would not have been able to obtain information about their 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) 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 account.

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 Owners were their aunt and uncle, and those relationships justify 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 accounts.

Amount of the Award

In this case, Account Owner Michel S. Ezechiel held one demand deposit account, and the Account Owners jointly held a second demand deposit account. The Swiss Archive records indicate that the value of Account Owner Michel S. Ezechiel's demand deposit account as of 1 September 1963 was SF 1,090.00 and that the value of the Account Owners' joint numbered demand deposit account as of 1 September 1963 was SF 518.45. In accordance with Article 31(1) of the Rules, these amounts are increased by an adjustment of SF 285.00 and SF 1,235.00, respectively, which reflects standardized bank fees (and numbered account fees for the joint account) charged to the accounts between 1945 and 1963. Consequently, the adjusted balances of the accounts at issue are SF 1,375.00 and SF 1,753.45, respectively. According to Article 29 of the Rules, if the amount in a demand deposit 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. Accordingly, both accounts are considered to have held a balance of SF 2,140.00, for a combined balance of SF 4,280.00. 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 to produce a total award amount of SF 53,500.00.

Division of the Award

According to Articles 23(1)(d) and (g) 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; and, if none of the persons entitled to an award under Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with the principles of fairness and equity. In this case, the Claimants are brothers, are descendants of Account Owner Olga Ezechiel's parents, and are related by marriage to Account Owner Michel S. Ezechiel. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half 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
23 June 2008