

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 2],
[REDACTED 3], and [REDACTED 4]

in re Accounts of Natale Foa and Umberto Foa

Claim Number: 500904/AC

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the accounts of Giuseppe Foa.¹ This Award is to the published accounts of Natale Foa (“Account Owner Natale Foa”) and Umberto Foa (“Account Owner Umberto Foa”) (the “Account Owners”), over which Simone Eugenio Foa (“Power of Attorney Holder Simone Foa”) and Giuseppe Foa (“Power of Attorney Giuseppe Foa”) (together the “Power of Attorney Holders”) held power of attorney, at the Geneva branch of the [REDACTED] (the “Bank”).²

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 a Claim Form identifying Power of Attorney Holder Giuseppe Foa as her father, Dr. Joseph Victor Foa, formerly Giuseppe Vittorio Foa, who was born on 10 July 1907 in Turin, Italy, and was married to [REDACTED] on 27 June 1942 in New Bedford, Massachusetts, United States. The Claimant explained that her father, who was Jewish, worked as an aeronautical engineer in Italy, until he was forced to leave his job because of his anti-fascist beliefs and because he was Jewish. The Claimant stated that after her father was arrested, imprisoned, and released several times, he fled the country in 1939 to avoid further persecution,

¹ The CRT did not locate an account belonging to the Claimant’s relative, Giuseppe Foa, 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.

² The CRT notes that, on the February 2001 published list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the “ICEP List”), Natale Foa and Umberto Foa are indicated as having two accounts each. Upon careful review of the Bank’s record, the CRT has concluded that Natale Foa and Umberto Foa jointly held two accounts.

and lived in Zurich, Switzerland before eventually emigrating to the United States. The Claimant indicated that it was possible that during the period before her father emigrated to the United States, her father's family attempted to give him financial aid by listing him on their accounts. The Claimant also explained that [REDACTED] is a common name in her family, and that she was named [REDACTED 1] based on this family tradition, and that to her family's knowledge, all the Foas who resided in Turin around the time of the Second World War were related, as it was an uncommon name in the city of Turin during that period. According to information provided by the Claimant, her father passed away on 31 March 1996 in Bethesda, Maryland, United States, and his wife, the Claimant's mother, passed away on 25 January 2001 in Potomac, Maryland. The Claimant indicated that to her knowledge, the only surviving members of the family are herself, her three sisters, who are represented in this claim, as well as a paternal aunt and a paternal uncle.

The Claimant submitted documents in support of her claim, including: 1) a copy of her father's birth certificate, stating that Giuseppe Vittorio Foa was born on 10 July 1909 in Turin, Italy, and that his parents were [REDACTED] and [REDACTED]; 2) a copy of her father's United States naturalization certificate, documenting that Joseph Victor Foa (also Giuseppe Vittorio Foa) became an American citizen on 10 November 1944, at which time he was 35 years old and married, and stating that he was formerly an Italian citizen; 3) a copy of a United States Department of Defense Personnel Security Questionnaire, stating that Joseph Victor Foa was born on 10 July 1909 in Turin, Italy, that his parents were [REDACTED] and [REDACTED], and that he was known as Giuseppe Vittorio Foa until September 1939; 4) an excerpt from records of an investigation conducted in November 1954, stating that according to the United States District Court in Buffalo, New York, Joseph Victor Foa was born on 10 July 1909 in Turin, Italy, that he entered the United States on 13 September 1939, before which his last place of residence was in Zurich, Switzerland; 5) a copy of a security clearance certificate, issued 28 March 1957, showing that Dr. Joseph Victor Foa was born on 10 July 1909 in Turin, Italy; 6) a copy of a clearance form for a meeting of the American Rocket Society, held in 1958, showing that Joseph V. Foa was born on 10 July in Turin, Italy; 7) a copy of her father's will, dated 18 October 1994, stating that Joseph V. Foa bequeathed his estate to his wife, [REDACTED], and if she did not survive him, to their children, [REDACTED 2], [REDACTED 3], [REDACTED 1], and [REDACTED 4], in equal shares; and 8) a copy of her mother's will, dated 18 October 1994, indicating that [REDACTED] bequeathed her estate to her husband, Joseph V. Foa, and if he did not survive her, to her children, [REDACTED 2], [REDACTED 3], [REDACTED 1], and [REDACTED 4], or to their issue, in equal shares by representation.

The Claimant indicated that she was born on 15 August 1946 in Buffalo, New York, United States. The Claimant is representing her three sisters, [REDACTED 2], née [REDACTED], born on 28 March 1943, [REDACTED 3], born on 31 January 1945, and [REDACTED 4], née [REDACTED], born on 2 October 1947, all in Buffalo.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were *Monsieur* (Mr.) Umberto Foa, an Italian citizen, and *Monsieur* (Mr.) Natale Foa, who were brothers, and the Power of Attorney Holders were *Monsieur* (Mr.) Simone Eugenio Foa and Mr. Giuseppe Foa. The Bank's record indicates that the Account Owners held a demand deposit account in Swiss Francs ("SF"), and a custody account. This record also indicates that as of the account opening on 30 March 1938, correspondence was to be sent to *Monsieur* (Mr.) U. Foa at 33 Via Nizza in Turin, Italy, which address was changed on 5 April 1939 to Avenue des Orangers 18 in Nice, France, and that at a later date, the Bank was instructed to hold all correspondence. According to the Bank's record, the accounts were originally held under the names of the Account Owners, and were later transferred to numbered accounts, identified by the number P.H. 16.358. This record also indicates that power of attorney was granted to Power of Attorney Holder Giuseppe Foa as of 23 February 1939 over the demand deposit account and a safe deposit box, in the event that such safe deposit box might be opened at a later date. The Bank's record, however, does not indicate that a safe deposit box was ever rented by the Account Owners. The Bank's record includes the Account Owners' signature samples.

The Bank's record indicates that the accounts were closed on 29 June 1940. The amount in the accounts on the date of their closure is unknown. There is no evidence in the Bank's record that the Account Owners, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's father's name matches the published name of Power of Attorney Holder Giuseppe Foa. The CRT notes that while the Bank's records do not contain information about the Power of Attorneys Holders' residence, Power of Attorney Holder Giuseppe Foa's city and country of residence match the published city and country of residence of the Account Owners.

In support of her claim, the Claimant submitted documents, including: 1) a copy of her father's birth certificate; 2) a copy of her father's United States naturalization certificate; 3) a copy of a United States Department of Defense Personnel Security Questionnaire; 4) an excerpt from records of an investigation conducted in November 1954; 5) a copy of a security clearance certificate; and 6) a copy of a clearance form for a meeting of the American Rocket Society, providing independent verification that the person who is claimed to be Power of Attorney Holder Giuseppe Foa had the same name recorded in the Bank's records as the name of Power of Attorney Holder Giuseppe Foa, and that he resided in the same city recorded in the Bank's records as the city of residence of the Account Owners.

The CRT notes that the Claimant did not identify the Account Owners. However, given that the Account Owners and the Power of Attorney Holders on these accounts shared the same family name; that according to information provided by the Claimant, Power of Attorney Holder Giuseppe Foa resided in the same city as the Account Owners; and that the Bank's records noted

that the Account Owners were brothers, the CRT therefore determines that it is plausible that the Account Owners and the Power of Attorney Holders were members of the same family.

The CRT also notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners as her relatives.

Status of the Account Owners as Victims of Nazi Persecution

The CRT notes that while the Claimant did not indicate whether the Account Owners were Victims of Nazi Persecution, the Account Owner's family member, Power of Attorney Holder Giuseppe Foa was a Victim of Nazi Persecution. The Claimant stated that Power of Attorney Holder Giuseppe Foa was Jewish, and that he was arrested, imprisoned, forced to leave his job, and that he eventually fled to Switzerland to avoid further persecution.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information demonstrating that the Account Owners were the Claimant's relatives.

As indicated above, the CRT notes that the Account Owners and the Power of Attorney Holders shared the same family name, and that the Bank's records noted that the Account Owners were brothers, and the CRT therefore determines that it is plausible that the Account Owners and the Power of Attorney Holders were members of the same family. The CRT further notes that the Claimant submitted: 1) a copy of her father's birth certificate; 2) a copy of her father's United States naturalization certificate; 3) a copy of a United States Department of Defense Personnel Security Questionnaire; 4) an excerpt from records of an investigation conducted in November 1954; 5) a copy of a security clearance certificate; and 6) a copy of a clearance form for a meeting of the American Rocket Society. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. The CRT further notes that these documents provide independent verification that the Claimant's relatives bore the same family name as the Account Owners and that they resided in Turin, which supports the plausibility that the Claimant is related to the Account Owners.

The CRT notes that the Claimant indicated that there are other surviving members of the family who were not included in her claim, but that no other family members have submitted claims to these accounts.

The Issue of Who Received the Proceeds

The Bank's records indicate that the accounts were closed on 29 June 1940.

Given that the Account Owners resided in Nazi-allied Italy and in the part of France controlled by Italy; that Power of Attorney Holder Giuseppe Foa was imprisoned by the Fascist regime and later fled Italy to avoid further persecution; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their 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, the Power of Attorney Holders 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 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 Power of Attorney Holder Giuseppe Foa was her father. The CRT has determined that the Account Owners were related to Power of Attorney Holder Giuseppe Foa which entitles the Claimant to an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held one custody account and one demand deposit 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"), and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. 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 189,250.00.

Division of the Award

The CRT notes that while the Claimant has plausibly demonstrated that the Account Owners were her relatives, the exact familial relationship between the Claimant and the Account Owner has not been determined. According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) of the Rules 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 principles of fairness and equity. The Claimant represents her three sisters: [REDACTED 2], [REDACTED 3], and [REDACTED 4]. The CRT deems it fair and equitable that the Claimant and her sisters are each entitled to one-quarter of the total award amount.

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
9 March 2005