

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of *Geca S. A.*

Claim Number: 710578/WI/AC¹

Award Amount: 699,702.63 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Umberto Modiano.² This Award is to the unpublished accounts of *Geca S. A.* (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).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, 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 an Initial Questionnaire identifying the Account Owner as *A. E. Geniki Kaltsopoiia (Geka)* (General Stockings Manufacturing Co.), located at 217 Constantinopouleos Street and 13 Ermou Street in Thessaloniki, Greece. The Claimant indicated that his father, [REDACTED], founded the company in 1926 as a family business, and that it was one of the largest stockings manufacturers in Greece. The Claimant stated that his father, who was the company’s sole proprietor, was born on 21 August 1901 in Thessaloniki, where he resided prior to the Second World War. According to the Claimant his father frequently traveled to France, Italy and Switzerland, where he had business associates. The Claimant explained that during the Second World War, the company’s assets were looted by the Nazis and that his father, who was Jewish, fled Thessaloniki for Athens, Greece. Finally, the Claimant indicated that his father was

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered GRE-0002154, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 710578.

² The CRT did not locate an account belonging to Umberto Modiano 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”).

deported to the Haidari camp, where he was imprisoned for eight months. The Claimant indicated that his father died on 5 October 1988 in Thessaloniki.

The Claimant submitted copies of contracts for the company's insurance policies, indicating that *A. E. Geniki Kaltsoiia* used also the abbreviated forms "Geka" and "Geka, Modiano" in its business transactions.

The Claimant indicated that he was born on 30 April 1953.

Information Available in the Bank's Records

The Bank's records consist of custody account statements, dated 6 March 1940, and a list of suspended accounts. According to these records, the Account Owner was *Geca S. A.* The Bank's records do not indicate where the Account Owner was located. Additionally, these records indicate the Account Owner's address for correspondence: *Messieurs De L'Harpe & Cie* at 2, Boulevard du Théâtre in Geneva, Switzerland. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated, and two custody accounts, numbered 120.084 and 120.083.

The Bank's records indicate that on 11 October 1940, the account of unknown type was transferred to a collective suspense account for dormant assets, where it remains today. The amount in the account on the date of its transfer was 38.30 Swiss Francs ("SF").

The Bank's records further indicate that on 1 March 1940 the custody account numbered 120.083 contained the following securities:

- *5% American et Foreign Power Company, Inc. Obl. Gold Debenture 1930/2030* bonds, with a nominal value of 3,000.00 United States Dollars ("US \$");
- *5½% Cédules Hypothécaires au porteur, Déb. Sté Immobilière rue Henri Mussard, 8, 2ème rang, rem. Moyennant préavis de trois mois, le 15 juin 1945 ou au plus tard le 15 juin 1950* bonds, with a nominal value of SF 10,000.00;
- 13 shares of *Selected Industries Inc.* common stock;
- 13 shares of *prior US \$5.50 cum. Selected Industries Inc.* stock;
- 13 purchase warrants for *Selected Industries Inc.* stock;
- 20 shares of *General Electric Cy.* common stock;
- 10 shares of *6% cum. conv. prior. pref. "A" Republic Steel Corporation* stock;
- 10 shares of *Texas Corporation* common stock.

The Bank's records also indicate that on 1 March 1940, the custody account numbered 120.084 contained the following securities:

- *5% American et Foreign Power Company, Inc. Obl. Gold Debenture 1930/2030*, with a nominal value of US \$1,000.00;
- 10 shares of *US \$6.- cum. Pref. Commonwealth et Southern Corp.* stock;
- 6 purchase warrants for *Selected Industries Inc.* common stock;

- 6 shares of *prior US \$5.50 cum. Selected Industries Inc.* stock;
- 6 shares of *Selected Industries Inc.* common stock;
- 15 shares of *General Electric Cy.* common stock;
- 5 shares of *6% cum. conv. prior. pref. "A" Republic Steel Corporation* stock;
- 20 shares of *Texas Corporation* common stock.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of an authorization form concerning authorized signatories to the account, and indicates the Account Owner's correspondence address in Geneva, Switzerland.

The Bank's records do not show when the custody accounts at issue were closed, nor do these records indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owner or its heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's company name matches the unpublished name of the Account Owner.³ The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than its name.

In support of his claim, the Claimant submitted documents, including contracts for the company's insurance policies providing independent verification that the entity that is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT 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 Claimant has made a plausible showing that his father, the owner of the Account Owner, was a Victim of Nazi Persecution. The Claimant stated that his father was Jewish, that he resided in Nazi-occupied Greece and that he was imprisoned in the Haidari camp for eight months.

³ The CRT notes that "*Geca*" constitutes a romanized spelling variation of "*Geka*" and that "*S. A.*" is the French equivalent of the Greek institutional abbreviation "*A. E.*"

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the owner of the Account Owner by submitting specific information, demonstrating that the owner of the Account Owner was the Claimant's father.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT also notes that the Claimant submitted copies of his father's company contracts for insurance policies. The CRT notes that it is plausible that these documents are documents that most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the owner of the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the owner of the Account Owner, as he has asserted in his Claim Form.

There is no information to indicate that the owner of the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With regards to the account of unknown type, the Bank's records indicate that the account was transferred to a collective suspense account, where it remains today.

With regards to the two custody accounts, given that the owner of the Account Owner resided in Nazi-occupied Greece, that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the accounts; that the owner of the Account Owner and his heirs would not have been able to obtain information about his 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 owner of 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 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 the owner of the Account Owner was his father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the owner of the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one account of unknown type and two custody accounts. With regards to the account of unknown type, the Bank's records indicate that the value of the account as of 11 October 1940 was SF 38.30. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00.

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. Bonds in good standing with market values higher than their nominal values and stocks are valued at market value.

With respect to custody account 120.083, the Bank's records indicate that the account held a number of stocks and bonds as follows:

- *5% American et Foreign Power Company, Inc. Obl. Gold Debenture 1930/2030* bonds, with a nominal value of US \$3,000.00, which at the time was equivalent to SF 13,230.00⁴ and a market value of 62 percent of face value. These bonds were in good standing and, the market value being below the nominal value, are valued at their nominal value.⁵ Therefore, the CRT determines the value of these bonds to be SF 13,230.00.
- *5½% Cédules Hypothécaires au porteur, Déb. Sté Immobilière rue Henri Mussard, 8, 2ème rang, rem. Moyennant préavis de trois mois, le 15 juin 1945 ou au plus tard le 15 juin 1950* bonds, with a nominal value of SF 10,000.00. The CRT notes that, in as much as the company still operated in 1998, it can be assumed that its bonds were in good standing and were redeemed as scheduled. Therefore, the CRT determines the value of these bonds to be SF 10,000.00.⁶
- 13 shares of *Selected Industries Inc.* common stock with a market price on 1 March 1940 of US \$6.50, which was equivalent to SF 28.67;⁷
- 13 shares of *prior US \$5.50 cum. Selected Industries Inc.* stock with a market value on 1 March 1940 of US \$614.25, which was equivalent to SF 2,708.84;⁸
- 13 purchase warrants for *Selected Industries Inc.* common stock of no value on 1 March 1940;⁹

⁴ The CRT uses official exchange rates when making currency conversions.

⁵ *New York Times*, 2 March 1940.

⁶ *Schweizerisches Handelsamtblatt*, 6 February 1998.

⁷ *Moody's Manual of Investments, American and Foreign: Banks - Insurance Companies - Investment Trusts - Real Estate - Finance and Credit Companies*, Moody's Investors Service, New York, 1941, p. 748.

⁸ *Id.*

⁹ *Id.*

- 20 shares of *General Electric Cy.* common stock with a market value on 1 March 1940 of US \$755.00, which was equivalent to SF 3,329.55;¹⁰
- 10 shares of *6% cum. conv. prior. pref. "A" Republic Steel Corporation* stock with a market value on 1 March 1940 of US \$875.00, which was equivalent to SF 3,858.75;¹¹;
- 10 shares of *Texas Corporation* common stock with a market value on 1 March 1940 of US \$446.25, which was equivalent to SF 1,967.96;¹²

Therefore, the combined value of this account is SF 35,123.77.

With respect to custody account 120.084, the Bank's records indicate that the account contained:

- *5% American et Foreign Power Company, Inc. Obl. Gold Debenture 1930/2030*, with a nominal value of US \$1,000.00, which was equivalent to SF 4,410.00; and a market value of 62 percent of face value. These bonds were in good standing and, the market value being below the nominal value, are valued at their nominal value.¹³ Therefore, the CRT determines the value of these bonds to be SF 4,410.00.
- 10 shares of *US \$6.- cum. Pref. Commonwealth et Southern Corp.* stock with a market value on 1 March 1940 of US \$650.00, which was equivalent to SF 2,866.50.¹⁴
- 6 purchase warrants for *Selected Industries Inc.* common stock of no value on 1 March 1940;¹⁵
- 6 shares of *prior US \$5.50 cum. Selected Industries Inc.* stock with a market value on 1 March 1940 of US \$283.50, which was equivalent to SF 1,250.24.¹⁶
- 6 shares of *Selected Industries Inc.* common stock with a market price on 1 March 1940 of US \$3.00, which was equivalent to SF 13.23;¹⁷
- 15 shares of *General Electric Cy.* common stock with a market value on 1 March 1940 of US \$566.25, which was equivalent to SF 2,497.16;¹⁸
- 5 shares of *6% cum. conv. prior. pref. "A" Republic Steel Corporation* stock with a market value on 1 March 1940 of US \$437.50, which was equivalent to SF 1,929.38;¹⁹
- 20 shares of *Texas Corporation* common stock with a market value on 1 March 1940 of US \$892.50, which was equivalent to SF 3,935.93;²⁰

Therefore, the total value of this account is SF 16,902.44.

¹⁰ *New York Times*, 2 March 1940.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Moody's Manual of Investments, American and Foreign: Banks - Insurance Companies - Investment Trusts - Real Estate - Finance and Credit Companies*, Moody's Investors Service, New York, 1941, p. 748.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *New York Times*, 2 March 1940.

¹⁹ *Id.*

²⁰ *Id.*

In this case, the combined value of the three accounts at issue is SF 55,976.21. The current value of the amount of the award is determined by multiplying the historic value or 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 699,702.63.

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
21 December 2007