

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹
represented by [REDACTED]

and to Claimant [REDACTED 2]

in re Accounts of Alexandre Rado, Helene Rado and *Geopress S.A.*

Claim Numbers: 207483/AC; 790416/AC²

Original Award Amount: 250,800.00 Swiss Francs

Award Amendment Amount: 212,395.88 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], formerly known as [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together, the “Claimants”) to the accounts of Alexandre Rado. This Award Amendment is to the accounts of Alexandre Rado (“Account Owner A. Rado”), Helene Rado (“Account Owner H. Rado”) and *Geopress S.A.* (“Account Owner *Geopress*”) (together the “Account Owners”) at the Basel and New York branches of the [REDACTED] (the “Bank”).

All award amendments 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.

Procedural History

On 4 April 2003, the Court approved an Award to Claimant [REDACTED 1] for three accounts owned by the Account Owners (the “April 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 2]. Review

¹ On 4 April 2003, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) for the accounts of Alexandre Rado, Helene Rado, and *Geopress S.A.* (the “April 2003 Award”), which is the subject of this Award Amendment.

² [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HUN-0113092, 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 790416.

of Claimant [REDACTED 2]'s claim subsequent to the April 2003 Award indicates that he is entitled to share in the original award amount, as detailed below.

The April 2003 Award

In the April 2003 Award, the CRT determined that the Account Owners owned one custody account and two accounts of unknown type. The CRT further determined that Claimant [REDACTED 1] plausibly identified the Account Owners, that he plausibly demonstrated that he is related to the Account Owners, and that he made a plausible showing that the Account Owners were Victims of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their three accounts. The CRT noted that the Bank's records did not indicate the value of the accounts, and therefore presumed that their combined value was 20,900.00 Swiss Francs ("SF"), and determined that the April 2003 Award amount was SF 250,800.00. Finally, the CRT determined that Claimant [REDACTED 1] was entitled to the entire award amount.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire ("IQ") identifying Account Owner A. Rado as his stepfather, Prof. Dr. Sandor (Alexandre) Kalman Rado, who was married to Claimant [REDACTED 2]'s mother, [REDACTED], in 1962. Claimant [REDACTED 2] stated that his stepfather, who was Jewish, was first married to [REDACTED], with whom he had two children, [REDACTED] and [REDACTED]. Claimant [REDACTED 2] explained that the family resided in Paris, France from 1934 until 1936, where his stepfather was the head of an anti-Nazi press office, after which they resided at Rue de Lausanne 113 in Geneva, where his stepfather owned a syndicate called *Geopress*.³ Claimant [REDACTED 2] indicated that his stepfather, a renowned geographer, was also the head of an undercover anti-fascist organization that worked for the Red Army. Claimant [REDACTED 2] explained that the organization operated until 1944, when several of his stepfather's subordinates were arrested, and his stepfather and his wife were forced to go into hiding until they were eventually able to escape to Paris. According to Claimant [REDACTED 2], his stepfather's son was beaten and interrogated by the Nazis, the family lost their wartime food rations, and the family's property and accounts were left behind in their haste to flee, and have not since been recovered. Claimant [REDACTED 2] indicated that his stepfather died on 20 August 1981 and that his mother died in November 1974.

In support of his claim, Claimant [REDACTED 2] submitted a copy of his stepfather's will, dated 12 October 1973, indicating that Sandor Rado bequeathed his estate to his wife, [REDACTED], and that if she predeceased him, then to his stepson, the son of his wife, Dr. [REDACTED 2], the

³ "In 1936 or 1937, with Soviet funds and having a Swiss citizen as silent partner, (Alexandre) Rado organized Geopress, a news agency specializing ... in maps and geographic background data." See http://www.cia.gov/csi/kent_csi/docs/v12i3a05p_0004.htm.

Claimant, and also specifying that Sandor Rado's biological children, [REDACTED] and [REDACTED], were not to receive any portion of the estate. Claimant [REDACTED 2] indicated that he was born on 8 August 1943.

Information Available in the Bank's Records

As detailed in the April 2003 Award, the Bank's records indicate the names and addresses of the Account Owners, as well as the relationship between the Account Owners. Furthermore, these records include information regarding Account Owner A. Rado's covert intelligence operations. These records indicate that the Account Owners jointly held one account of unknown type, that Account Owners A. Rado and H. Rado jointly held one custody account and that Account Owner A. Rado held one account of unknown type. These records, which indicate that the two accounts of unknown type were frozen, do not indicate the value of the three accounts or the dates of their closure.

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 two claims of the Claimants in one proceeding.

Claimant [REDACTED 2]'s Identification of the Account Owners

Claimant [REDACTED 2]'s stepfather's name, the name of his company, and the name of his first wife match the published names of the Account Owners. Claimant [REDACTED 2] also identified the Account Owners' city of residence, which matches unpublished information about the Account Owners contained in the Bank's records.

In support of his claim, Claimant [REDACTED 2] submitted documents, including a copy of his stepfather's will, providing independent verification that the person who is claimed to be Account Owner A. Rado had the same name recorded in the Bank's records as the name of Account Owner A. Rado.

The CRT notes that Claimant [REDACTED 2] filed an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Sandor Rado, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 2] has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him prior to the

publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2].

Status of the Account Owners as Victims or Targets of Nazi Persecution

As detailed in the April 2003 Award, the CRT determined that the Account Owners were Victims or Targets of Nazi Persecution.

Claimant [REDACTED 2]'s Relationship to the Account Owners

Claimant [REDACTED 2] has plausibly demonstrated that he is related to Account Owner A. Rado by submitting specific information and documents, demonstrating that Account Owner A. Rado was Claimant [REDACTED 2]'s stepfather. These documents include a copy of his stepfather's will.

The Issue of Who Received the Proceeds

As detailed in the April 2003 Award, the CRT has concluded that it is plausible that the accounts' proceeds were not paid to the Account Owners or their heirs.

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of Claimant [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 2] has plausibly demonstrated that Account Owner A. Rado was his stepfather, and that relationship justifies an Award. Third, the CRT determined in the April 2003 Award that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 2], as Account Owner A. Rado's stepson and named beneficiary from a will dated 12 October 1973, has a better entitlement to the account and the shares of the accounts held by Account Owner A. Rado than Claimant [REDACTED 1], Account Owner A. Rado's nephew, and a better entitlement to the share of the accounts held by Account Owner *Geopress*, a company owned by Account Owner A. Rado.

Amount of the April 2003 Award

As detailed in the April 2003 Award, the Account Owners held one custody account and two accounts of unknown type. 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00, and the average value of an

account of unknown type was SF 3,950.00, resulting in a total average value of SF 20,900.00 for the three accounts at issue.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the April 2003 Award, the adjustment factor was 12, and the resulting award amount was SF 250,800.00.

Since the April 2003 Award, the adjustment factor has been raised to 12.5.

New Division of the Award

With respect to the account of unknown type held by Account Owner A. Rado at the New York branch of the Bank, according to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. Therefore, Claimant [REDACTED 2] is solely entitled to this account.

According to Article 25(2) of the Rules, if an account is a joint account, as is the case here with the custody account jointly held by Account Owners A. Rado and H. Rado, and the account of unknown type jointly held by all the Account Owners, it shall be presumed that each account owner was the owner of an equal share of the account. Accordingly, Account Owners A. Rado and H. Rado shall be presumed to have held a half-share in the custody account, and each of the Account Owners shall be presumed to have held a one-third share of the account of unknown type.

With respect to the half-share in the custody account and the one-third share in the account of unknown type held by Account Owner A. Rado, as indicated above, Claimant [REDACTED 2] has submitted Account Owner A. Rado's will, indicating that he is Account Owner A. Rado's legal heir. Consequently, Claimant [REDACTED 2] is solely entitled to the shares of these accounts held by Account Owner A. Rado.

With respect to Account Owner *Geopress*' one-third share of the account of unknown type, given that Account Owner *Geopress* was a company owned by Account Owner A. Rado, and that Claimant [REDACTED 2] is the legal heir of Account Owner A. Rado, the CRT concludes that Claimant [REDACTED 2] is also solely entitled to Account Owner *Geopress*' share of this account.

With respect to the half-share in the custody account and the one-third share in the account of unknown type held by Account Owner H. Rado, 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) 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 CRT notes that both the Claimants are related to Account Owner H. Rado by marriage. Accordingly, the CRT finds that it is fair and equitable that each of the Claimants is entitled to one-half of Account Owner H. Rado's shares of the accounts.

Thus, Claimant [REDACTED 2] is entitled to the entire account of unknown type held by Account Owner A. Rado, three-quarters of the custody account held jointly by Account Owner A. Rado and Account Owner H. Rado, and five-sixths of the account of unknown type held jointly by all three Account Owners. Claimant [REDACTED 1] is entitled to one-fourth of custody account held jointly by Account Owner A. Rado and Account Owner H. Rado, and one-sixth of the account of unknown type held jointly by all three Account Owners.

Amount and Division of the Award Amendment

The CRT recognizes that Article 31(1) of the Rules adjusts account values based upon the length of time that has passed since 1945 and the awarding of the accounts. In this case, even though Claimant [REDACTED 1] was awarded in April 2003, Claimant [REDACTED 2], who is the subject of this award amendment, was not. Therefore, the CRT finds that the adjustment factor of 12.5, not 12, is the more appropriate factor to bring the value of his share of the awarded accounts to current value.

Recognizing that almost three years have passed since the April 2003 Award, and that there is no indication that Claimant [REDACTED 1] was aware that another equally entitled relative had filed a claim, the CRT determines that Claimant [REDACTED 2] is entitled to a payment from the Settlement Fund equalling his share of the award amount. As noted above, the total 1945 value of the Account Owners' accounts was SF 20,900.00. Claimant [REDACTED 2] is entitled to one account of unknown type, three-quarters of a custody account, and five-sixths of an account of unknown type, or SF 16,991.67. 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 an Award Amendment amount of SF 212,395.88.

Claimant [REDACTED 2] is entitled to the full amount of the Award Amendment.

Scope of the Award Amendment

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 Amendment

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
29 March 2006