

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]

in re Account of Arthur Semo

Claim Number: 220313/MW¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Arthur Semo (the “Account Owner”) at 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 a Claim Form identifying the Account Owner as her paternal grandfather, Arthur Gabriel Semo, who was born on 5 January 1889 in Vienna, Austria, and was married to [REDACTED], née [REDACTED], on 12 January 1912 in Sofia, Bulgaria. The Claimant stated that her grandparents had two children: [REDACTED] and [REDACTED] (the Claimant’s father). The Claimant identified her grandfather as the co-owner, together with his brother, [REDACTED], and his brother-in-law, [REDACTED] (or [REDACTED]), of a textile manufacturing and trade business named *Sémo Frères* or *Sémo Frères Avramov* with offices in Sofia and in Milan, Italy. The Claimant stated that her grandfather resided in Sofia from 1910 to 1920 and that in 1921 he moved to Italy. The Claimant indicated that in the late or mid-1930s her grandfather sold his business, in whole or in part, to *I.G. Farben Industries*, but continued to manage the business. According to the Claimant, from the 1930s onward, her grandfather shared his time between Milan, where he resided at via Privata Mangili, No. 2, and Sofia. The Claimant stated that from 1934 to 1936 her father attended a boarding school in Zug, Switzerland, and that her grandfather visited him in Switzerland and traveled there on business. Furthermore, the Claimant stated that in the late 1930s, when anti-Semitic laws were enacted in Italy, her grandfather, who was Jewish, sent his children to Sofia, where they stayed with their aunt and

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 220314. The CRT will treat the claim to this account in a separate decision.

uncle, and later to the United States. The Claimant indicated that in 1940, her grandfather's house in Milan was confiscated under anti-Semitic legislation and thereafter he resided in hotels there. The Claimant indicated that in 1944, after the death of his mother, her grandfather escaped to Havana, Cuba, via Portugal, and that after the Second World War he obtained a visa for the United States, to which he emigrated in approximately 1946, and where he died on 4 December 1954 in New York, New York. The Claimant stated that her grandmother died on 26 April 1985 in Fairfield, Connecticut, the United States, and that her father died on 23 July 1997 in Los Angeles, California, the United States.

In support of her claim, the Claimant submitted her father's birth and death certificate, which indicates that his father was Arthur G. Semo; her father's marriage certificate, which indicates that the Claimant's paternal grandparents were Arthur Semo and [REDACTED]; her grandmother's will, which indicates that the Claimant is her granddaughter; her father's Spanish passport, which indicates that he traveled to Bulgaria, Italy, and Switzerland; her father's visa to France, dated 4 July 1938, which indicates that he resided at via Privata Mangili, no. 2, Milan; and a copy of a letter from her great uncle, Victor Semo, dated 27 April 1927, indicating that her grandfather's company was in the process of purchasing two apartments in Milan.

The Claimant also submitted Arthur Semo's will bequeathing his Estate to [REDACTED]; [REDACTED]'s will bequeathing half of her Estate to the Claimant, and the other half to the Claimant's father; and a declaration of trust made by the Claimant's parents (the "Trust") indicating that the Claimant is the beneficiary of the residue of her parents' Estates. The Trust provides that following the death of either of the Claimant's parents, the first of which to die to be known as the "First Decedent," then the remaining trust assets are to be divided into three shares, designated SHARE A, SHARE B AND SHARE C. The Trust further provides that SHARE A is to be comprised of assets having the value of 600,000.00 United States Dollars ("US \$") and that the trustee is to have broad discretion in the selection of which assets go to SHARE A; that SHARE B is "comprised of First Decedent's half of any community property held by this Trust other than furniture, furnishings, household and other personal effects held by this Trust plus any separate property contributed to the Trust by First Decedent that has not been transmuted into community property, reduced by the portion of such assets that are to be placed in SHARE A"; and that SHARE C is comprised of all the remaining property of the Trust, together with all furnishings, furniture, household and other personal effects held by the Trust. The Trust also provides that in the event that the Claimant's father predeceases the Claimant's mother then the assets of SHARE B are to be distributed free of trust to the Claimant's mother.

The Claimant stated that she was born on 31 August 1951 in New York, New York. The Claimant represents her mother, [REDACTED 2], née [REDACTED], who was born on 24 November 1919 in Philadelphia, Pennsylvania, the United States.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the identity of the Account Owner was concealed using a numbered account, number 61640. The Bank's record

indicates that the Account Owner held a custody account, which was closed on 17 February 1939. The value of the account on the date of its closure is not known.

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 (the "ICEP Investigation") determined that the owner of that account was Arthur Semo, who resided at via Durini, No. 1, Milan, Italy.

There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather's name and city of residence match the published name and city of residence of the Account Owner. In support of her claim, the Claimant submitted documents, including her father's marriage certificate, which indicates that the Claimant's paternal grandparents were Arthur Semo and [REDACTED]; her father's Spanish passport, which indicates that he traveled to Bulgaria, Italy and Switzerland; her father's visa to France, dated 4 July 1938, which indicates that he resided at via Privata Mangili, no. 2, Milan; and a copy of a letter from her great uncle, [REDACTED], dated 27 April 1927, indicating that her grandfather's company was in the process of purchasing two apartments in Milan. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that his house in Milan was confiscated under anti-Semitic legislation, and that in 1944 he fled from Italy to Cuba.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's paternal grandfather. These documents include her father's birth and death certificate, which indicates that his father was Arthur G. Semo; her father's marriage certificate, which indicates that the Claimant's paternal grandparents were Arthur Semo and [REDACTED]; and her grandmother's will, which indicates that the Claimant is her granddaughter. There is no information to indicate that the Account Owner has surviving heirs other than the Claimant's mother whom the Claimant represents.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 17 February 1939.

The CRT notes that for the purposes of the investigation carried out pursuant to the instructions of the ICEP Investigation, the date of Axis occupation of Italy has been stated as 10 June 1940. However, because Italy formed an alliance with Germany on 25 October 1936, it is considered that from this date there existed the possibility of oppression. Accordingly, an asset closed between 25 October 1936 and 10 June 1940 will only be considered as closed prior to Axis occupation if there is evidence that the asset was paid to the account owner or an authorized party. In this case, the Bank's record provides only the closure date of the account, and does not indicate any further information regarding the circumstances surrounding the closure of the asset. Accordingly, given that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his account 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 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 Account Owner was her paternal grandfather, and that relationship justifies an Award. Third, 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. 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). 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 162,500.00.

Division of the Award

According to Article 23(2)(a) and 23(2)(b) 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; and if none of the named beneficiaries has filed a claim,

the CRT shall make an award to any claimant who has submitted an unbroken chain of wills or other inheritance documents, starting with the will of, or other inheritance documents pertaining to, the Account Owner. Here, the Claimant submitted the Account Owner's will, the will of the Account Owner's spouse, and the Trust made by the Account Owner's son and daughter-in-law, the terms of which have been described above. These documents indicate that the Account Owner bequeathed his assets to his spouse, [REDACTED], who in turn bequeathed her assets to her son, [REDACTED], and to her granddaughter, the Claimant, in equal shares. Under the terms of the Trust, "separate property contributed to this Trust by First Decedent (the Claimant's father) that has not been transmuted into community property" shall be considered an asset comprising SHARE B of the Trust. The CRT considers the Award to be such an asset. As indicated above, the Trust provides that such assets be distributed free of trust to the Claimant's mother in the event that the Claimant's father, [REDACTED], predeceases the Claimant's mother. The Claimant is representing her mother, [REDACTED 2]. Consequently, the Claimant and her mother are each entitled to one-half of the 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
25 October 2004