

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant René Silvera,¹
also acting on behalf Giosia Emilio Pinto

in re Account of E.R. Silvera

Claim Number: 221809/CH

Award Amount: 1,925,000.00 Swiss Francs

This Certified Award is based upon the claim of René Silvera (the "Claimant") to the published accounts of Raphael S. Silvera.² This Award is to the unpublished account of E.R. Silvera (the "Account Owner") at the Geneva branch of the [REDACTED] (the "Bank").

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his paternal uncle, Elie Raphael Silvera, who was Italian and was born in Alep, Syria, in 1878. The Claimant indicated that his uncle was never married. The Claimant identified his uncle as a financier who lived in Colombes, France, at Avenue France-France 46 from 1935 until May 1940. The Claimant stated that his uncle, who was Jewish, moved to Amélie-les-Bains, France, in 1940, and subsequently fled to Lisbon, Portugal, where he died in 1945.

In support of his claim, the Claimant submitted a letter, dated 9 October 1935, and a certificate of deposit, dated 10 October 1935, from the Bank to E.R. Silvera, who was addressed as *Monsieur* (Mr.) E.R. Silvera. The letter indicates that E.R. Silvera was then residing at *The Great Eastern Hotel* in London, the United Kingdom. The letter further indicates that, pursuant to instructions from *Lloyds Bank Limited* in London, the Bank had opened a custody account in E.R. Silvera's name, and that 50,000.00 United States Dollars ("US \$") in gold coins ("Eagles") had been deposited in this account. The certificate of deposit confirms that the Eagles were deposited in E.R. Silvera's account. The letter and certificate of deposit do not indicate the disposition of this account. According to the Claimant, after the Second World War, his father, Joseph Silvera, inquired about this account at the Bank. The Claimant stated that his father was told that the funds had been withdrawn and that the account was no longer in credit, but that the Bank did not provide his father with any evidence thereof.

¹ The Claimant's wife, Sarina Silvera, informed the CRT that the Claimant passed away on 29 March 2002. The Claimant's wife submitted the Claimant's death certificate and last will and testament.

² The CRT will treat the claim to these accounts in a separate decision.

The Claimant indicated that he was born in Cairo, Egypt, on 6 February 1925. The Claimant is representing his cousin, Giosia Emilio Pinto, who was born on 19 April 1915, also in Cairo.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Elie R. Silvera.

Information Available in the Bank's Records

The auditors who carried out the investigation of the 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 account belonging to E.R. Silvera.

The CRT's Analysis

Identification of the Account Owner

The Claimant's uncle's name matches the unpublished name of the Account Owner. In support of his claim, the Claimant submitted a letter, dated 9 October 1935, and a certificate of deposit, dated 10 October 1935, from the Bank to the Account Owner, indicating that he held a custody account at the Bank containing US \$ 50,000.00 worth of Eagles.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Elie R. Silvera, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant 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 before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to these accounts.

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, and fled from France to Portugal during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's uncle. The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and the Claimant,

prior to the publication in February 2001 of the ICEP List, which indicates that the Account Owner was well known to the Claimant as a family member, and supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

Given that the Account Owner fled from France to Portugal where he died in 1945; 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 account; 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 his uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither 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 custody account. According to the letter and certificate of deposit from the Bank submitted by the Claimant, the custody account contained US \$ 50,000.00 worth of Eagles as of 10 October 1935. The CRT notes that, at the prevailing exchange rate on 10 October 1935, US \$ 50,000.00 was equal in value to 154,000.00 Swiss Francs ("SF"). The current value of the amount of the award is determined by multiplying the historic value 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 1,925,000.00.

Division of the Award

According to Article 23(1)(d) 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. In this case, the Claimant is representing his cousin, Giosia Emilio Pinto. Accordingly, the Claimant and his cousin are each entitled to receive one-half 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 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 Special Masters.

Claims Resolution Tribunal
10 September 2004

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