

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Fernando Vitale

Claim Number: 501778/GO

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Fernando Vitale (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).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 a Claim Form identifying the Account Owner as her father, Fernando Vitale, who was born on 4 December 1904 in Milan, Italy, and was married to [REDACTED] on 22 September 1935 in Genoa, Italy. The Claimant stated that her father, who was Jewish, was an engineer, and that he resided in Italy until 1 December 1943, when he fled with his family to Switzerland. According to the Claimant, she and her parents were interned as refugees in a camp in Switzerland. The Claimant explained that upon their entry into Switzerland, all of her father’s valuables and money were confiscated and later deposited in the Bank.¹ The Claimant stated that they returned to Italy on 7 January 1947, and that her father’s money that was deposited in the Bank was never returned. The Claimant indicated that her mother died on 30 November 1968 in Milan, that her father died on 12 October 1990 in Cernusco Sul Naviglio, Italy, and that she is her father’s only heir.

¹ The CRT notes that pursuant to the Swiss Federal Council’s Decree of 12 March 1943, the assets of all refugees who had entered Switzerland after 1 August 1942 were confiscated by the Swiss Federal authorities and held for them in accounts at the Bank, which accounts were managed by the Swiss police authorities. See Independent Commission of Experts, Switzerland - Second World War, Switzerland, National Socialism, and the Second World War: Final Report, at 158-59 (2002). See also *In re Accounts of Emma Kuckel-Pipersberg* (approved by the Court on 11 April 2005).

The Claimant submitted copies of documents, including: (1) her own refugee identity card (*Ausweis für Flüchtlinge*), numbered 17145, indicating that [REDACTED] was born on 29 June 1936 in Milan, and that she was a refugee in Switzerland; (2) her mother's refugee identity card, numbered 17144, indicating that [REDACTED] was born on 22 February 1908 in Genoa, and that she was a refugee in Switzerland; (3) her father's death certificate, indicating that Fernando Cesare Vitale was born on 4 December 1904 in Milan, and that he died on 12 October 1990 in Cernusco Sul Naviglio; (4) inheritance documents, indicating that [REDACTED] was the daughter of Fernando Vitale, who died on 12 October 1990, and that she is her father's only heir; and (5) a receipt (*Quittung*) issued on 6 December 1943, indicating that Fernando Vitale deposited money at the Bank, which is further described below.

The Claimant indicated that she was born on 29 June 1936 in Milan.

Information Available in the Bank's Record

The CRT notes that 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 ("ICEP" or the "ICEP Investigation") did not report an account belonging to Fernando Vitale during their investigation of the Bank. The document evidencing an account belonging to Fernando Vitale was submitted to the CRT by the Claimant.

This document consists of a receipt, issued on 6 December 1943 by the Police Department in Locarno, Switzerland. According to this document, the Account Owner was Fernando Vitale. This document indicates that the Account Owner was born on 4 December 1904, and that he was Italian. This document indicates that the Account Owner held an account, the type of which is not indicated, and that it held a balance of 62,000.00 Lira ("ITL"). This document contains no further information regarding the account's subsequent disposition.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the name of the Account Owner specified on the document evidencing the account. The CRT notes that the document evidencing the existence of this account was submitted by the Claimant himself.

In support of her claim, the Claimant submitted copies of documents, including her father's death certificate and inheritance documents, providing independent verification that the person who is claimed to be the Account Owner had the same name, citizenship and the date of birth specified on the document evidencing the account as the name, citizenship and the date of birth 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, and that he was interned as a refugee in a camp in Switzerland.

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 father. These documents include inheritance documents, indicating that [REDACTED] was the daughter of Fernando Vitale. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the owners of refugee accounts generally could not freely dispose over their accounts;² that a significant number of refugee accounts could not be retrieved by account owners;³ that complaints of refugees mostly concerned the fact that their deposited assets were not returned;⁴ that there is no contemporaneous record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner would not have been able to obtain information about her 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 Presumption (h), 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. 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 father, 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.

² Bergier Commission Refugee Report, pp. 295, 315. See also *In re Accounts of Emma Kuckel-Pipersberg*, *In re Account of Franco di Alberto Levi* and *In re Accounts of Gerson Goldschmidt and Cecile Goldschmidt*.

³ Bergier Commission Refugee Report, pp. 312 ff., 309. See also *In re Accounts of Emma Kuckel-Pipersberg*, *In re Account of Franco di Alberto Levi* and *In re Accounts of Gerson Goldschmidt and Cecile Goldschmidt*.

⁴ Jung, Joseph (ed.): *Zwischen Bundeshaus und Paradeplatz - Die Banken der Credit Suisse Group im Zweiten Weltkrieg*, (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War), Zurich: NZZ Verlag, 2001, p. 704. See also *In re Accounts of Emma Kuckel-Pipersberg*, *In re Account of Franco di Alberto Levi* and *In re Accounts of Gerson Goldschmidt and Cecile Goldschmidt*.

Amount of the Award

In this case, the Account Owner held one account of unknown type. The document evidencing the account indicates that the value of the account as of 6 December 1943 was ITL 62,000.00, which is equivalent to 939.30 Swiss Francs (“SF”).⁵ 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. The current value of the amount of the award is determined by multiplying 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 49,375.00.

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
17 March 2008

⁵ The CRT uses official exchange rates when making currency conversions.