

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Gino Alberto Bergmann¹

in re Account of Giulio Bergmann

Claim Numbers: 401091/WT; 401094/WT

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of Gino Alberto Bergmann (the “Claimant”) to the account of Maria Bergmann-Padoa and Alba Errera. This Award is to the published account of Giulio Bergmann (the “Account Owner”) at the Chiasso branch of the [REDACTED] (the “Bank”).²

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 two Claim Forms identifying the Account Owner as his father, Giulio Bergmann, who was born on 22 November 1881 in Milan, Italy, and was married to Maria Bergmann, née Padoa. The Claimant indicated that his father was an attorney, and that he had three children – the Claimant and two other children who have both passed away. In a conversation with the CRT, the Claimant’s son, Paolo Bergmann, indicated that Giulio Bergmann, who was Jewish, worked as a lawyer in Milan, and that due to the anti-Semitic legislation imposed in collaboration with the Nazi regime, he was banned from practising law in Italy. The Claimant’s son indicated that in 1941, his grandfather fled to Switzerland, where he was arrested and interned in a refugee camp until 1944.

The Claimant stated that his father died on 5 March 1956 in Milan.

The Claimant submitted copies of documents, including an excerpt from the official genealogical registry of the city of Milan, indicating that Gino Alberto Bergmann (the Claimant) was related

¹ In a telephone conversation with the CRT, the Claimant’s son, Paolo Bergmann, informed the CRT that his father passed away on 1 March 2006.

² In a separate decision, the CRT awarded the account of Maria Bergmann-Padoa and Alba Errera to the Claimant. See *In re Account of Maria Bergmann-Padoa and Alba Errera* (approved on 23 March 2007).

to Giulio Bergmann and Maria Bergmann, née Padoa, and that all three individuals resided in Milan.

The Claimant indicated that he was born on 30 October 1922 in Milan. In a telephone conversation with the CRT, the Claimant's son informed the CRT that the Claimant passed away on 1 March 2006.

Information Available in the Bank's Records

The Bank's records consist of a pledge document signed by Giulio Bergmann on 20 April 1934, and printouts from the Bank's database. According to these records, the Account Owner was Giulio Bergmann, a lawyer (*avvocato*) who resided in Milan, Italy.

The Bank's records indicate that the Account Owner held a debt of an unspecified amount with the Bank, and that he consequently pledged the assets that he held at the Bank to the Bank in order to secure that debt. The Bank's records do not indicate the value of the assets that the Account Owner held at the Bank, nor the type of those assets.

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 find this account or asset in the Bank's system of open accounts, and they therefore presumed that it was closed. The auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's profession, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted copies of documents, including an excerpt from the official genealogical registry of the city of Milan, providing independent verification that the

person claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records 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 he was banned from practising law after the imposition of anti-Semitic legislation in Italy, and that in 1941 he fled to Switzerland, where he was arrested and interned in a refugee camp until 1944.

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 father. These documents include a copy of the official genealogical registry of the city of Milan, indicating that Gino Alberto Bergmann (the Claimant) was related to Giulio Bergmann. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner was forbidden from practicing law due to the enactment of anti-Semitic legislation in Italy and that he fled Italy in 1941; that the Account Owner was arrested and detained in Switzerland from 1941 until 1944; that there is no 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 and his heirs would not have been able to obtain information about the 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 applications of Presumptions (h) and (j), as provided in Article 28 of 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 claims are 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 father, 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 account.

Amount of the Award

In this case, the CRT has concluded that the Bank's records indicate that the Account Owner held an account of unknown type at the Bank. 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 an account of unknown type was 3,950.00 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 49,375.00.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2009