

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Jacques Raymond Bernas
represented by [REDACTED]

in re Account of Raymond Bernas

Claim Number: 206440/HB¹

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Raymond Bernas (the “Account Owner”), over which Dora Bernas (“Power of Attorney Holder Dora Bernas”) and Lolla Bernas (“Power of Attorney Holder Lolla Bernas”) (together the “Power of Attorney Holders”) held power of attorney, at the Zurich 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 Jacques Raymond Bernas, who was born on 23 March 1911 in Paris, France, and was married to [REDACTED], née [REDACTED], on 20 October 1943, in New York, New York, the United States. The Claimant further identified Power of Attorney Holder Dora Bernas as his mother, Dora Dwera Bernas, née Prokojski, who was born in 1884 in Russia, who was married to [REDACTED], and who died in 1973. In telephone conversations with the CRT on 27 October 2005 and on 9 November 2005, the Claimant identified Power of Attorney Holder Lolla Bernas as his sister-in-law, Laura (Lolla) Bernas née Altman, and stated that he goes by his middle name, Raymond Bernas. The Claimant, who is Jewish, stated that he resided with his family at Rue de la Solidarité 6 in Paris from 1933 to 1935 and at Boulevard d'Indochine 6 from 1935 to 1939. The Claimant further indicated that he served in the French army from 26 August 1939 until 2 August 1940, when he left the French army and moved to Lyon, France. The Claimant indicated that in 1940 he moved to Algeria, via Casablanca, Morocco, and that he eventually emigrated to the United States and

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 206440 and 216712. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 206440.

settled in New York. The Claimant further indicated that in February 1943 he enlisted in the United States Army, in which he served until 11 October 1945. The Claimant also indicated that Lolla Bernas resided in Vienna, Austria, from 1933 until March 1938, when she fled to Lyon, where she resided until December 1940, when she fled to the United States and resided in New York until 1945.

The Claimant submitted documents in support of his claim, including: (1) a copy of his French identification card, issued in France on 2 November 2000, indicating that Jacques Raymond Bernas was born on 23 March 1911; (2) a copy of his marriage license, issued in New York, dated 26 October 1942, indicating that Raymond Jacques Bernas was born on 23 March 1911 in France, that he worked as a diamond setter, and that his mother was Dora Pokrojska, who was born in Russia; (3) a copy of his application for a marriage license, issued in New York, dated 26 October 1942, indicating that the Claimant signs his name as Raymond Jacques Bernas and that he was born in Paris; (4) a copy of his marriage certificate, issued in New York, dated 29 October 1942, indicating that his name is Raymond Jacques Bernas; (5) a copy of his honorable discharge certificate from the United States Army, issued in New York, dated 11 October 1945, indicating that Raymond J. Bernas's mailing address was 43 Rue Vieille du Temple in Paris; (6) a copy of his brother's family book (*livret de famille*), indicating that his brother, [REDACTED] married Laura Bernas, née Altman, in Paris on 5 May 1933, and that [REDACTED] passed away in 1985; (7) a copy of his own family book; (8) a copy of his records issued by the French war ministry, indicating that the Claimant resided at Rue de la Solidarité 6 in Paris from 1933 until 1935, when he moved with his family to 6 Boulevard d'Indochine in Paris; (9) a copy of his French passport, issued 28 November 1940 in Lyon, indicating that in 1940 the Claimant resided at Rue Alphonse Fochier 8 in Lyon, and that he moved to Algeria in December 1940; (10) a copy of a registration certificate from the French consulate in New York, issued 11 November 1941, indicating that Laura Bernas, née Altman, had French citizenship and that she was married to [REDACTED] and that they resided at Rue Alphonse Fochier 8 in Lyon; (11) a copy of Laura Bernas's certificate of naturalization, indicating that she had French citizenship; and (12) a copy of an extract from the office of the mayor of the 19th district in Paris, indicating that [REDACTED] and Laura Altman were married on 12 May 1933 in Paris.

Information Available in the Bank's Records

The Bank's records consist of a printout from the Bank's database, an internal report dated 30 October 1950 concerning the status of safe deposit boxes and the payment of fees, and a customer list of outstanding fees on safe deposit boxes as of 31 August 1950. According to these records, the Account Owner was Raymond Bernas, who resided in Paris, France, Power of Attorney Holder Dora Bernas was Dora Bernas, and Power of Attorney Holder Lolla Bernas was Lolla Bernas. The Bank's records indicate that the Account Owner held a safe deposit box, numbered 1644, which was opened in 1938 and was closed in 1951. According to these records, the rental fees for the safe deposit box were paid until 19 April 1940, and the amount of outstanding fees as of 31 August 1950 was 297.00 Swiss Francs ("SF").

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided

the CRT with additional documents. These documents consist of a customer card and a safe deposit box registry card. These records, which contain a signature sample for the Account Owner, indicate that safe deposit box 1644 was rented on 19 April 1938. These records further indicate that at that time, the Account Owner resided at Boulevard Indochine 6, Paris 19.

These records also contain a handwritten note, reading “to be forcibly opened” dated 10 November 1950. According to the Bank's records, the Bank received a letter on 7 December 1950, informing that the Account Owner's address had changed to 1, Rue Vidal de la Blache, Paris 20. The records do not contain the actual letter, nor do they state from whom the letter was received. Furthermore, the Bank's records indicate that the safe deposit box was forcibly opened on 20 January 1951, was found empty, and the account was therefore closed by the Bank. Finally, these records indicate that the outstanding rental fees for the safe deposit box were paid in March 1951, partially through a deposit paid for the Account Owner's key to the safe deposit box and partially through a payment of 73.90 United States Dollars that was made to the Bank.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holders or their heirs received the proceeds of the account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner as himself, Power of Attorney Holder Dora Bernas as his mother, and Power of Attorney Holder Lolla Bernas as his sister-in-law. The Claimant's middle name and surname, city and country of residence match the published name, city and country of residence of the Account Owner, and his mother and sister-in-law's names match the published names of the Power of Attorney Holders as contained in the Bank's records.

The CRT notes that the Claimant's name is Jacques Raymond Bernas whereas the Account Owner's name was Raymond Bernas. However, the CRT notes that the Claimant stated that he uses his middle name, Raymond, and provided various documents, including a copy of his French identification card, which indicate that he is commonly known as Raymond Bernas and that he signs his name as Raymond Jacques Bernas. Therefore, the CRT concludes that it is plausible that the Claimant used the name Raymond Bernas when opening his account at the Bank. In addition, the CRT notes that the Claimant stated that his sister-in-law is commonly known by the name of Lolla, whereas documents he submitted indicate that her given name is Laura. However, given that the names are similar, and that the Claimant has plausibly identified the Account Owner and Power of Attorney Holder Dora Bernas, the CRT concludes that it is plausible that the Claimant's sister-in-law used the name “Lolla” and that the difference in first names does not materially affect the Claimant's identification of the Account Owner and the Power of Attorney Holders.

In support of his claim, the Claimant submitted documents, including a copy of his French identification card; a copy of his marriage license; a copy of his application for a marriage license; a copy of his marriage certificate; and a copy of his honorable discharge certificate from the Army of the United States. 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 and country recorded in the Bank's records as the name, city and country of residence of the Account Owner, and that the persons who are claimed to be the Power of Attorney Holders had the same names as the Power of Attorney Holders. 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 he is Jewish and that he resided in Nazi-occupied France during the Second World War.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is the Account Owner by submitting specific information and documents. These documents include a copy of his French identification card; a copy of his marriage certificate and application for a marriage license; and a copy his honorable discharge from the United States Army.

The Issue of Who Received the Proceeds

The Bank's records indicate that the safe deposit box account was opened 19 April 1938 and was closed by the Bank on 20 January 1951. The CRT notes that the Bank's records indicate that the Bank was informed of the Account Owner's new address in 1950. However, the new address does not correspond to the address information provided by the Claimant, who himself was the Account Owner. Further, there is no indication who contacted the Bank at this time, or that the Account Owner was aware that the Bank had been contacted. The CRT considers it therefore plausible that the address information, and the following closing payment for the safe, was incorrectly linked to this account. Given that there is no record of the payment of the Account Owner's account to him or to the Power of Attorney Holders; that the safe deposit box was forcibly opened by the Bank; that the Account Owner, the Power of Attorney Holders, and their 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 Owner 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, the Power of Attorney Holders, or their 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 he is the Account Owner, and that justifies an Award.

Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one safe deposit box. The Bank's records indicate that the safe deposit box was found empty on 20 January 1951, when it was forcibly opened. However, given that the Account Owner was a Victim of Nazi Persecution and as such did not have an opportunity to adjust his assets in light of the wartime conditions, given that the safe was not opened until 1951, and given the unlikelihood that the Account Owner would have opened and maintained a safe deposit box, and paid fees for the box, without placing anything of value in it, the CRT concludes that the value of the safe deposit account before and during the Second World War cannot be determined. Taking these factors into account, the CRT considers the value of the account to be unknown. 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a safe deposit box account was 1,240.00 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 15,500.00.

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 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 the Special Masters.

Claims Resolution Tribunal
18 April 2006