

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 Accounts of Robert Devicourt, Alfred Gottschalk, and Leo Sararu

Claim Number: 501650/JW

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Leo Sararu. This award is to the published account of Robert Devicourt (“Account Owner Devicourt”), Alfred Gottschalk (“Account Owner Gottschalk”), and Leo Sararu (“Account Owner Sararu”) (together “the Account Owners”) 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 Account Owner Sararu as her paternal uncle, Dr. Leo Sararu (formerly Salzman), who was born on 20 May 1899 in Bucharest, Romania, and was married to [REDACTED]. The Claimant indicated that her paternal grandparents were [REDACTED], who was born in 1869 in Jassy, Romania, and who changed his name to [REDACTED] in 1938, and [REDACTED], neé [REDACTED]. The Claimant indicated that her paternal grandparents had three children: Leo Sararu, [REDACTED], and [REDACTED 2] (the Claimant’s father). The Claimant indicated that her uncle, Leo Sararu, had children, but that she does not know whether they are still alive. According to documents submitted by the Claimant, [REDACTED 2] married [REDACTED], neé [REDACTED], on 11 April 1940, and they lived in Romania until 1946. These documents also indicate that Dr. Leo Sararu visited Zurich, Switzerland on 4 February 1951 to inquire about an account that he jointly owned with a German citizen named Gottschalk and that he intended to return to Paris, France after his trip and subsequently to Israel. The Claimant further indicated that in 1950, she and her parents emigrated to Argentina, where the Claimant and her father reside today.

In support of her claim, the Claimant submitted copies of the following documents: (1) a letter from Leo Sararu written in Zurich and dated 4 February 1951, indicating that he inquired about

an account that he jointly held in a Swiss bank with a German citizen named Gottschalk; (2) a decision from a court in Bucharest dated 12 May 1938, indicating that [REDACTED], who was born in 1869 in Jassy, Romania, and resided in Bucharest, was the same person as [REDACTED], and that he had three children: [REDACTED], who was born on 21 March 1901, [REDACTED 2], who was born on 7 February 1914, and Leo Sararu, who was born on 20 May 1899; (3) an excerpt from the *Monitor Oficial* (Official Monitor) dated 6 February 1946, indicating that [REDACTED] changed his last name from [REDACTED] to [REDACTED]; (4) an extract from the Romanian Birth Registry regarding [REDACTED 2], indicating that his parents were [REDACTED] and [REDACTED], neé [REDACTED], and that he married [REDACTED] on 11 April 1940; (5) a certificate from the International Organization of Refugees dated 19 August 1940, indicating that [REDACTED 2] was a refugee from Romania; (6) a certificate from the International Organization of Refugees, indicating that [REDACTED], neé [REDACTED], was a Romanian refugee and that she had a daughter, [REDACTED], who was born on 1 January 1946; (7) her father's identity card, issued by Argentinean Federal Police on 15 April 1950, indicating that he was born on 7 February 1914 in Bucharest and that he emigrated to Argentina in 1950, and; (8) a temporary travel certification from Israel to Argentina issued by the Immigration Division of the Argentinean Ministry of Technical Affairs at the Argentinean Consulate in Tel Aviv, Israel, issued on 20 March 1952 for [REDACTED], indicating that he was Jewish and that his domicile was in Tel Aviv.

The Claimant indicated that she was born on 1 January 1946 in Bucharest. The Claimant is representing her father [REDACTED 2], who was born on 7 February 1914 in Bucharest.

Information Available in the Bank's Records

The Bank's records consist of a customer card and printouts from the Bank's database. According to these records, Account Owner Devicourt was Robert Devicourt, who resided in Switzerland, Account Owner Gottschalk was Alfred Gottschalk, who resided in Germany, and Account Owner Sararu was Dr. Leo Sararu. The Bank's records do not contain information about Account Owner Sararu's domicile. The Bank's records indicate that the Account Owners held a joint numbered account with a designation 7341, the type of which is not indicated.

The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this account. 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 in the Bank's system of open accounts, and they therefore presumed that it was closed. These 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 Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Sararu. The Claimant's uncle's name matches the published name of Account Owner Sararu. The Claimant identified Account Owner Sararu's professional title, which matches unpublished information about Account Owner Sararu contained in the Bank's records. The CRT also notes that the Claimant indicated that Account Owner Sararu and Account Owner Gottschalk jointly held the account, even though these names were published separately.

In support of her claim, the Claimant submitted documents, including: a personal letter written by Leo Sararu to the Claimant's father, and a decision from a court in Bucharest, indicating that [REDACTED] was the same person as [REDACTED], and that his children were [REDACTED], [REDACTED 2], and Leo Sararu, providing independent verification that the person who is claimed to be Account Owner Sararu had the same name and professional title recorded in the Bank's records as the name and professional title of Account Owner Sararu. The CRT notes that the name Leo Sararu appears only once on the February 2001 published list of accounts determined by ICEP (the "ICEP List") to be probably or possibly those of victims of Nazi persecution.

The CRT notes that the Claimant did not identify Account Owner Devicourt. The CRT finds it plausible that the Claimant would not have information about her uncle's associates during the Second World War because the Claimant was not born until 1946. The CRT notes that the Claimant identified Account Owner Gottschalk in documents that she submitted with her claim. The CRT further notes that she did not indicate that she is related to Account Owner Gottschalk.¹

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city of residence than the city of residence of Account Owner Gottschalk.

Status of Account Owner Sararu as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Sararu was a Victim of Nazi Persecution. The Claimant stated that Account Owner Sararu was Jewish, and that he lived in Romania during its alliance with Nazi Germany.

The Claimant's Relationship to Account Owner Sararu

The Claimant has plausibly demonstrated that she is related to Account Owner Sararu by submitting specific information and documents, demonstrating that Account Owner Sararu was the Claimant's uncle. These documents include a decision from a court in Bucharest, indicating

¹ The CRT notes Account Owner Sararu stated in a letter dated 4 February 1951 that he was awaiting information regarding an account in a Swiss bank that he opened with a German citizen named Gottschalk. The CRT did not investigate other accounts belonging to Account Owner Gottschalk on behalf of the Claimant, because the Claimant did not assert that she was related to Account Owner Gottschalk or that she was entitled in any other way to receive the proceeds of any accounts he may have owned.

that [REDACTED]'s children were [REDACTED], [REDACTED 2], and Leo Sararu; an excerpt from the *Monitor Oficial* (Official Monitor), indicating that [REDACTED] changed his last name from [REDACTED] to [REDACTED]; an extract from the Romanian Birth Registry for [REDACTED 2], indicating that his parents were [REDACTED] and [REDACTED], né [REDACTED], and that he married [REDACTED]; and a certificate from the International Organization of Refugees for [REDACTED], indicating that she had a daughter, [REDACTED]. There is no information to indicate that Account Owner Sararu has surviving heirs who have submitted claims other than the party whom the Claimant is representing.

Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that Account Owner Sararu was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner Sararu, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that Account Owner Sararu lived in Nazi-allied Romania during the Second World War; that Account Owner Sararu and his heirs resided in a Communist country in Eastern Europe after the Second World War; that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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), (i) 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 Owners, 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 represented party [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Sararu was her uncle and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor their heirs received the proceeds of the claimed accounts.

The CRT notes that [REDACTED 2], Account Owner Sararu's brother, is more entitled to the account than the Claimant, Account Owner Sararu's niece.

Amount of the Award

In this case, the Account Owners held an account of unknown type. 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.

Division of the Award

The CRT notes that the Claimant did not identify the other joint Account Owners as her relatives; however, Article 25(2) of the Rules stipulates that where a joint account is claimed by relatives of only one or some of the joint Account Owners, it shall be presumed that the account was owned as a whole by the Account Owner whose shares of the account have been claimed. According to Article 23(1)(e) 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 her father, [REDACTED 2], the brother of Account Owner Sararu. As indicated above, the Claimant’s father has a better entitlement to the award than the Claimant. Accordingly, Claimant’s father is entitled to 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 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
7 June 2006