

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Lionel Salem
also acting on behalf of Daniel Salem, Emmanuèle Maupas, and Christiane Gentili di Giuseppe,
represented by Yves Coulon

in re Accounts of F. Gentili di Giuseppe

Claim Numbers: 210978/MD; 216187/MD

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claims of Lionel Salem (the “Claimant”) to the accounts of F. Gentili di Giuseppe (the “Account Owner”) at the Geneva and Basel branches of the [REDACTED I] (“Bank I”) and the Geneva branch of the [REDACTED II] (“Bank II”).

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 maternal grandfather, Federico (Frédéric) Gentili di Giuseppe, who was born on 24 March 1868 in Vittorio Veneto, Italy, the son of Joseph and Caroline Gentili di Giuseppe. The Claimant stated that Federico Gentili di Giuseppe was married to Emma de Castro, and that the couple had two children, Marcello, who was born on 15 July 1901 in Rome, Italy, and Adriana, the Claimant’s mother, who was born on 10 February 1903 in Rome. The Claimant explained that his grandfather was an engineer, and that he was appointed as a representative of the Italian Ministry of Finance. The Claimant indicated that Emma Gentili di Giuseppe died in 1928 in Paris, France. The Claimant explained that his grandfather, who was Jewish, lived in Paris at 22 Avenue Foch in the 1930s, and that he died in April 1940 in Paris. The Claimant submitted documents demonstrating that the children and heirs of his grandfather continued to live in Paris after his death until the Nazi invasion of France, when they fled Paris to avoid Nazi persecution. According to the Claimant, his grandfather’s children were not aware of their father’s Swiss bank accounts and therefore never claimed them. The Claimant stated that Adriana Salem, née Gentili di Giuseppe, died on 6 August 1976 in Le Tholonet, France, and that Marcello Gentili di Giuseppe died on 2 July 1977 in Cambo-les-Bains, France. In support of his claim, the Claimant submitted his birth certificate, which indicates that Adriana Salem is his mother; the birth certificates of Marcello and Adriana Gentili di Giuseppe, which indicate that Frédéric Gentili di Giuseppe was their father; Adriana’s and Marcello’s marriage certificates; Marcello’s death

certificate; and Federico Gentili di Giuseppe's death certificate, which indicates that he resided in Paris.

The Claimant indicated that he is the son of Adriana Salem, née Gentili di Giuseppe, and that he was born on 5 March 1937 in Paris. The Claimant is representing his brother, Daniel Salem, who was born on 29 January 1925 in Paris, and his sister, Emmanuèle Maupas, née Salem, who was born on 11 February 1931 in Paris. The Claimant is also representing Christiane Gentili di Giuseppe, née Castel, the widow of Marcello Gentili di Giuseppe.

Information Available in the Banks' Records

Bank I

The records of Bank I consist of bank customer cards and a list of accounts. According to these records, the Account Owner was Mr. F. Gentili di Giuseppe, who resided in Paris at 32 Avenue de l'Opéra. The Bank's records indicate that the Account Owner held a demand deposit account, numbered 2403, denominated in Swiss Francs, at the Basel branch of Bank I. The records indicate that the account number was later changed to 46359. The balance of the account as of 22 February 1949 was 8.00 Swiss Francs. The Bank's records indicate that the account was closed by bank fees on 7 March 1952. The balance of the account at the date of closure was 5.00 Swiss Francs.

Furthermore, the records of Bank I indicate that the Account Owner held two demand deposit accounts under one number, 30509, at the Geneva branch of Bank I. These accounts were denominated in Swiss Francs and Finnish Marks. According to the Bank's records, these accounts were frozen in the 1940 freeze of French assets pursuant to a Swiss federal decree of 6 July 1940. The Bank's records indicate that the accounts were claimed in 1955 by the Account Owner's heirs, and that the Bank's records were transferred to the Litigation Department of Bank I. The records of Bank I indicate further that the Litigation Department of Bank I closed the accounts on 20 November 1964. The balances of these accounts on the dates of their closure are unknown. The records do not indicate to whom the accounts were closed. There is no evidence in Bank I's records that the Account Owner or his heirs closed these accounts and received the proceeds themselves.

Bank II

The record of Bank II consists of a bank customer card. According to this record, the Account Owner was F. Gentili di Giuseppe, who resided at 32 Avenue de l'Opera, Paris, France. The record indicates that the Account Owner held a custody account and a demand deposit account, both numbered 3886. The accounts were opened on 22 May 1919 and closed in 1951. The value of the accounts on the date of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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's grandfather's first initial, last name and place of residence match the published first initial, last name and place of residence of the Account Owner. In support of his claim, the Claimant submitted his birth certificate, which indicates that Adriana Salem, the daughter of the Account Owner, is his mother; the birth certificates of Marcello and Adriana Gentili di Giuseppe, which indicate that Frédéric Gentili di Giuseppe was their father; Adriana's and Marcello's marriage certificates; and the death certificate of Federico Gentili di Giuseppe, which indicates that he resided in Paris. These documents provide independent verification that the person who is claimed to be the Account Owner resided in the same city as the Account Owner. The CRT further notes that the name F. Gentili di Giuseppe appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of victims of Nazi persecution. Finally, the CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the children and the heirs of the Account Owner were Victims of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he died of natural causes in April 1940 in Paris. The heirs of the Account Owner were Jewish and lived in Paris, France, until the Nazi invasion of France, when they fled Paris to avoid Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that the Account Owner was his grandfather by submitting documents including his birth certificate, which indicates that Adriana Salem is his mother; and his mother's birth certificate, which indicates that Frédéric Gentili di Giuseppe was her father.

The Issue of Who Received the Proceeds

With respect to the demand deposit account at Bank I, numbered 46359, the Bank's records indicate that the account was closed by bank fees on 7 March 1952.

With respect to the one demand deposit account and one custody account at Bank II, given the closure of the Account Owner's accounts at Bank II in 1951, and the lack of evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves; the probability that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the Banks' concern regarding double liability; and given the application of Presumptions (b), (f), (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.

With regard to the two demand deposit accounts at Bank I, numbered 30509, the CRT has determined not to reach a decision at this time, pending consideration of whether the Account Owner's heirs received the proceeds of the accounts as a result of the litigation that was initiated in 1955 and apparently resolved in 1964.

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 grandfather, 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 other accounts.

Amount of the Award

In this case, the Account Owner held one custody account and four demand deposit accounts. As stated above, the CRT has determined not to reach a decision at this time, pending consideration of whether the Account Owner received the proceeds of two demand deposit accounts.

With respect to the demand deposit account at Bank I, numbered 46359, the Bank's records indicate that the value of the account as of 22 February 1949 was 8.00 Swiss Francs. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. 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, to produce an amount of 26,750.00 Swiss Francs for this account.

With respect to the one demand deposit account and the one custody account at Bank II, 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit

account was 2,140.00 Swiss Francs, and the average value of a custody account was 13,000.00 Swiss Francs.

The current value of these amounts are calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an amount of 189,250.00 Swiss Francs. Therefore, the total award amount for the accounts is 216,000.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Further, according to Article 23(1)(f) of the Rules, if a child of the Account Owner is deceased, that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner. In this case, the Claimant is representing his two siblings, Daniel Salem and Emmanuèle Maupas, and Christiane Gentili di Giuseppe, the widow of Marcello Gentili di Giuseppe. Accordingly, Christiane Gentili di Giuseppe is entitled to one-half of the total award amount, and the Claimant, Daniel Salem and Emmanuèle Maupas are entitled to share one-half of the total award amount or one-sixth each 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 claims 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
September 15, 2003