

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Etienne Georges Goldberger
also acting on behalf of Yvette Joselzon, Edith Goldberger,
and Gérard Goldberger

in re Account of Etienne Goldberger

Claim Number: 213625/AY

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Etienne Georges Goldberger (the “Claimant”) to the account of Etienne Goldberger (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 a Claim Form identifying the Account Owner as his paternal uncle, Etienne (Istvan) Goldberger, who was born to Jozsef Goldberger and Rosa Goldberger, née Weiss, in Maramarosziget, Hungary (later known as Sighet, Romania) on 5 January 1918. The Claimant stated that his uncle was not married and had no children. The Claimant further stated that he was named after his late uncle, who was an electrical engineer and resided in Paris, France, until 1937, and then moved to Grenoble, France, in 1940. The Claimant indicated that his uncle, who was Jewish, was a member of the French Resistance and was forced to live in hiding during the German occupation of France. The Claimant further stated that his uncle was arrested by the Nazis, who tortured and executed him on 27 March 1944 in Lyon, France. According to the Claimant, he, his mother and siblings, whom the Claimant is representing, are his uncle’s only surviving heirs. In support of his claim, the Claimant submitted documents including his uncle’s passport, student card, birth and death certificates, all indicating his uncle’s name, date and place of birth. His uncle’s birth certificate also indicates that his parents were Jozsef Goldberger and Rosa Goldberger, née Weiss. The Claimant also submitted his parents’ marriage certificate, indicating Emeric Goldberger was the son of Joseph Goldberger and Rose Goldberger, née Weisz; and excerpts from his family book, certified by the government of the city of Toulouse, indicating that the Claimant is the son of Emeric Goldberger and Edith Goldberger, née Katz. In addition, the Claimant submitted his uncle’s diploma, issued by the faculty of science at Paris University, which indicates that his uncle was Jewish. Furthermore,

the Claimant submitted letters sent by his uncle to his brothers and other relatives in 1941 and 1942 from Grenoble, his uncle's city of residence, and a letter sent by the French Ministry of Former Soldiers and Victims of War to the Claimant's father, Dr. Emeric Goldberger, which indicate that the Claimant's father was the brother of Etienne Goldberger. The Claimant indicated that he was born on 24 January 1945 in Toulouse, France. The Claimant is representing his mother, Edith Goldberger, née Katz, who was born on 21 December 1923 in Pecel, Hungary; his sister, Yvette Joselson, née Goldberger, who was born on 27 December 1942 in Toulouse; and his brother, Gérard Goldberger, who was born on 25 October 1956 in Toulouse.

Information Available in the Bank's Records

The Bank's records consist of a printout from the Bank's database and a suspense account statement. According to these records, the Account Owner was *Monsieur* (Mr.) Etienne Goldberger, from France. The Bank's records indicate that the Account Owner held an account of unknown type, which was transferred to a suspense account, which is a grouping of open and dormant accounts, on or before 28 December 1948. The amount in the account as of that date was 27.00 Swiss Francs. 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 Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's uncle's name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the bank records do not contain any specific information about the Account Owner other than his name and country of residence. The CRT notes that the Claimant's uncle's birth certificate indicates that his parents were Jozsef Goldberger and Rosa Goldberger, née Weiss; his parents' marriage certificate indicates that Emeric Goldberger was the son of Joseph Goldberger and Rose Goldberger, née Weisz; a letter sent by the French Ministry of Former Soldiers and Victims of War to the Claimant's father, Dr. Emeric Goldberger, also indicates that the Claimant's father was the brother of Etienne Goldberger; and excerpts from his official family book indicate that the Claimant is the son of Emeric Goldberger. These documents, taken together, confirm that Etienne Goldberger was the Claimant's paternal uncle. The Claimant further submitted letters sent by his uncle to his brothers and other relatives in 1941 and 1942 from Grenoble, his uncle's city of residence, all providing independent verification that the person who is claimed to be the Account Owner resided in France as recorded in the Bank's records as the residence of the Account Owner.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Etienne Goldberger, and indicates that he was born on 5 January 1918 and executed in Lyon, France, on 27 March 1944, which matches the information about the

Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, the CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. 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 Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he was executed by the Nazis in Lyon, France on 27 March 1944. As noted above, a person named Etienne Goldberger was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents including his uncle's birth certificate, his parents' marriage certificate, a letter sent by the French Ministry of Former Soldiers and Victims of War to the Claimant's father, Dr. Emeric Goldberger, and excerpts from his family book, indicating that the Claimant is the Account Owner's nephew. There is no information to indicate that the Account Owner has any other surviving heirs but for the Claimant and the persons he is representing.

The Issue of Who Received the Proceeds

Given that the Nazis killed the Account Owner before the date that his account was transferred to a suspense account; that Account Owner's account remained in existence after the Second World War and there is no record of the payment of the accounts to the Account Owner after the War; that the Account Owner's 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 inquires by account owners 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 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 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 uncle, 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 Account Owner held one account of unknown type. The Bank's records indicate that the value of the account of unknown type as of 28 December 1948 was 27.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 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 a total award amount of 49,375.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) 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' in equal shares by representation. In this case, the Claimant is representing his mother and his siblings in these proceedings. The Claimant's mother, Edith Goldberger, née Katz, is not a descendant of the Account Owner. Consequently, the Claimant's mother, Edith Goldberger, is not entitled to take part in the Award; however, the Claimant, as well as the Claimant's siblings, Yvette Joselzon and Gérard Goldberger, are each entitled to receive one-third of any payment made to the Claimant.

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
September 15, 2003