

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Dr. Walter Friedrich

**in re Account of Leon Vogelbaum, Hans Mathias,
Ida Mathias and Georg Mathias**

Claim Numbers: 501190/SJ, 501210/SJ, 501213/SJ

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the published accounts of Leon Vogelbaum (“Account Owner Vogelbaum”), Hans Mathias (“Account Owner Hans Mathias”), Ida Mathias (“Account Owner Ida Mathias”) and Georg Mathias (“Account Owner Georg Mathias”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”).¹

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 Claim Forms identifying three of the four Account Owners respectively as his father, Leon Vogelbaum, his paternal aunt, Ida Mathias, née Vogelbaum, and his paternal uncle by marriage, Hans Mathias. The Claimant stated that his father was born on 8 December 1888 in Scheinfeld, Germany and that he was married there to [REDACTED], born on 10 August 1894 and that his aunt, Ida Mathias, née Vogelbaum, born on 14 September 1901 in Scheinfeld, was married in 1923 to Hans Mathias, born on 7 January 1901. According to the Claimant his father, who was Jewish, moved from Germany to Argentina in 1914 where he set up a printing business in Buenos Aires that specialized in artistic calendars. The Claimant indicated that his father resided at 1465 Lisandro de la Torre, which was located in the Vicente Lopez area of Buenos Aires. The Claimant stated that his parents had two children, both born in Buenos Aires: the Claimant, born on 14 August 1925 and his sister, [REDACTED], born on 11

¹ The CRT notes that, 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 (the “ICEP List”), Leon Vogelbaum, Hans Mathias, Ida Mathias and Georg Mathias are each indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account, jointly held by these four individuals.

September 1927. The Claimant further stated that in 1936 his father, Leon Vogelbaum, had his name officially changed to Leon Arbolave, and that the surname of the entire family was changed at that time. The Claimant stated that his father died on 13 May 1971 and his mother died in June 1974, both in Buenos Aires.

With regard to his uncle and aunt, Hans and Ida Mathias, the Claimant stated the following: his relatives were Jewish and moved from Germany to Luxembourg before the Nazis rose to power. In Luxembourg, Hans Mathias started a business that dealt with the production and sale of ties. However, this business was not very successful and, as a result, the Claimant's father repeatedly sent wire transfers to his sister and his brother-in-law in order to help them make ends meet. After the Nazi occupation of Luxembourg in 1940, his aunt and uncle were forced into the internment camp at St. Cyprien, France (in the Eastern Pyrenees and from 1941 until 1949 they lived illegally in Monte Carlo, Monaco while waiting for visas to Argentina). The Claimant's father made significant efforts to assist his sister and brother-in-law in their efforts to immigrate to Argentina, including stating in a letter to the Department of Migration that his brother-in-law would work for him as a mechanic tending his printing machines. According to the Claimant his aunt and her husband were finally successful in their efforts to immigrate to Argentina, arriving in Buenos Aires in 1949. The Claimant stated that his uncle died in Buenos Aires in 1975 and that his aunt died in Buenos Aires in 1995 without issue.

In support of his claim, the Claimant submitted: the Argentinean identity card of his father, Leon Vogelbaum, certifying that he resided in Buenos Aires and bearing his signature; the 1936 official request of Leon Vogelbaum to change his name to Leon Arbolave as well as the surnames of his wife and children to Arbolave and the official approval thereof; the Claimant's own birth certificate, issued in 1936 with his new name, [REDACTED], and stating that he was born in Buenos Aires to Leon Arbolave and [REDACTED] on 14 August 1925; an announcement of the name change to Arbolave, typed on the letterhead of Leon Arbolave, proprietor of *Casa Becker* in Buenos Aires; an application for visas for Hans Mathias and his wife Ida Vogelbaum, sent by Leon Arbolave to the Argentinean Department of Migration dated 15 November 1949 and stating that they were from Luxembourg, living in Monte Carlo; numerous receipts for wire transfers from Leon Arbolave to Hans Mathias, via the First National Bank of Boston, including one dated 24 August 1940 addressed to "Cot 1, Barrack 28, Camp St. Cyprian, East Pyrenees" and others dated in 1941, 1942 and 1945 addressed to Monte Carlo; and a draft of a sworn declaration made by Leon Arbolave on 30 April 1962, explaining that his sister, Ida, and her husband, referred to as Juan Mathias, left Germany for Luxembourg where Juan Mathias established a tie manufacturing company.

As noted above, the Claimant stated that he was born on 14 August 1925 in Buenos Aires.

Information Available in the Bank's Records

The Bank's records consist of an account opening contract dated 19 March 1935, a form with instructions regarding correspondence, an extract from the Luxembourg commercial register, and printouts from the Bank's database. According to these records, the Account Owners were Leon Vogelbaum, who resided at 5 de Julio 1465 in Vicente Lopez, Buenos Aires, Argentina, Hans

Mathias, Ida Mathias, née Vogelbaum, and Georg Mathias, all of whom resided at 9, Grand Rue, in Luxembourg, Luxembourg. The Bank's records indicate that Account Owner Hans Mathias owned a business manufacturing ties named "*Lucrative*," which was located in Luxembourg. These records indicate that the Account Owners held a custody account, numbered 38890-II and that the account was opened by Account Owner Vogelbaum, but that Account Owners Hans and Ida Mathias were authorized to access the account during their lifetimes. The Bank's records further indicate that in the event that Account Owner Hans Mathias and/or Account Owner Ida Mathias were to die or to become legally incapacitated, Account Owner Georg Mathias, who was Account Owner Hans Mathias' brother, would be solely authorized to access the account upon presenting the necessary proof to the Bank of the deaths or incapacity of Account Owners Hans and/or Ida Mathias. The records indicate further that in the event that Account Owners Hans Mathias, Ida Mathias and Georg Mathias were to die or become incapacitated, Account Owner Vogelbaum would become solely authorized to access the account upon producing proof of the death or incapacity of the remaining account owners. The Bank's records further indicate that as of 2 November 1935, Account Owner Hans Mathias requested that all correspondence be sent to him in Luxembourg.

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

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 three claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified three of the four Account Owners. The Claimant's father's name and city and country of residence match the published name and city and country of residence of Account Owner Vogelbaum; the Claimant's aunt's name and city and country of residence match the published name and city and country of residence of Account Owner Ida Mathias; and the Claimant's uncle's name and city and country of residence match the published name and city and country of residence of Account Owner Hans Mathias. The Claimant specified the area in Buenos Aires where his father resided, which matches unpublished

information about Account Owner Vogelbaum contained in the Bank's records. Additionally, the Claimant identified the fact that his uncle, Hans Mathias, was a merchant in the business of manufacturing ties, matching additional unpublished information about Account Owner Hans Mathias contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including the Argentinean identity card of Leon Vogelbaum, indicating that he resided in Buenos Aires, and an official application for the visas of Hans Mathias and his wife Ida, sent by Leon Arbolave to the Argentinean Department of Migration, dated 15 November 1949 and stating that they were from Luxembourg, which provides independent verification that the people who are claimed to be Account Owner Vogelbaum, Account Owner Ida Mathias and Account Owner Hans Mathias had the same names and resided in the same cities recorded in the Bank's records as the names and cities of residence of Account Owner Vogelbaum, Account Owner Ida Mathias and Account Owner Hans Mathias.

The Claimant also submitted a sample of his father's signature, which matches the signature of Leon Vogelbaum contained in the Bank's records. The CRT notes that the Claimant stated that he has a sister. However, the CRT has received no other claims to this account.

The CRT further notes that the Claimant did not identify Account Owner Georg Mathias. Nevertheless, given that the Claimant has provided considerable unpublished information about the other Account Owners, the CRT finds that this does not affect the Claimant's overall identification of the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Ida Mathias and Account Owner Hans Mathias were Victims of Nazi Persecution. The Claimant stated that Account Owner Ida Mathias and Account Owner Hans Mathias were Jewish and that in 1940 they were interned in a camp at St. Cyprien in the East Pyrenees.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Vogelbaum was his father, Account Owner Ida Mathias was his aunt, and that Account Owner Hans Mathias was his paternal uncle by marriage. These documents include the 1936 official request of Leon Vogelbaum to change his name to Leon Arbolave; the Claimant's own birth certificate, issued in 1936 with his new name, [REDACTED], and stating that he was born in Buenos Aires to Leon Arbolave and [REDACTED]; and a draft of a sworn declaration made by Leon Arbolave on 30 April 1962, stating that his sister and brother-in-law were named Ida and Juan Mathias.²

As stated previously, the Claimant has a sister, who has not submitted a claim to this account.

² The CRT notes that Juan is the Spanish equivalent of the name Hans.

The Issue of Who Received the Proceeds

Given that Account Owner Ida Mathias and Account Owner Hans Mathias were interned in a camp in St. Cyprien, France; 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) 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 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 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 Account Owner Vogelbaum was his father, Account Owner Ida Mathias was his aunt, and Account Owner Hans Mathias was his uncle, and those relationships justify 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 account.

Amount of the Award

In this case, the Account Owners held one custody account. 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 a custody account was 13,000.00 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 162,500.00.

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
9 March 2005