

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Gino Alberto Bergmann¹

in re Account of Maria Bergmann-Padoa and Alba Errera

Claim Number: 401091/WT; 401094/WT

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of Gino Alberto Bergmann (the “Claimant”) to the published account of Maria Bergmann-Padoa (“Account Owner Bergmann”) and Alba Errera (“Account Owner Errera”) (together the “Account Owners”) at the Chiasso branch of the [REDACTED] (the “Bank”).²

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 Account Owner Bergmann as his mother, Maria Bergmann, née Padoa, who was born on 22 February 1892 in Milan, Italy, and was married to Giulio Bergmann, and identifying Account Owner Errera as his maternal grandmother, Alba Padoa, née Errera, who was born on 17 June 1864 in Venice, Italy, and was married to Angelo Padoa. The Claimant stated that his mother and grandmother were Jewish. The Claimant indicated that in 1941, after the enactment of racial laws in Italy, his father, who worked as a lawyer, was no longer permitted to represent clients before the courts because he was Jewish. The Claimant further indicated that his parents subsequently fled from Italy to Switzerland where they were arrested and interned until 1944. The Claimant stated that his grandmother died in 1941 in Milan. The Claimant submitted copies of documents, including official genealogical registry certificates issued by the municipal authorities of Milan on 18 May

¹ In a telephone conversation with the CRT on 3 April 2006, the Claimant’s son, Paolo Bergmann, informed the CRT that his father had passed away on 1 March 2006.

² 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”), Maria Bergmann from Milan, Italy, is indicated as having one account. The CRT further notes that on the List of Account Owners Published in 2005, Maria Bergmann-Padoa and Alba Errera are each indicated as having an account. Upon careful review, the CRT has concluded that Maria Bergmann from Milan, Italy, and Maria Bergmann-Padoa are the same person, and that the Bank’s records evidence the existence of only one account, jointly owned by Maria Bergmann-Padoa and Alba Errera.

2005 and 11 June 2005, indicating that Maria Bergmann-Padoa, Alba Padoa, née Errera, and Gino Alberto Bergmann are related. The Claimant indicated that he was born on 30 October 1922 in Milan.

Information Available in the Bank's Records

The Bank's records consist of two documents establishing personal liability signed on 27 December 1934 and 4 May 1935, and printouts from the Bank's database. According to these records, the Account Owners were *Signora* (Mrs.) Maria Bergmann-Padoa and *Signora* Alba Errera *Ved.* (Widow) Padoa, both of whom resided in Milan, Italy. The Bank's records indicate that the Account Owners held one account, the type of which is not indicated. The Bank's records do 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. 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 two claims of the Claimant in one proceeding

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's mother's name and grandmother's name match the published name of Account Owner Bergmann and Account Owner Errera, respectively. The Claimant's mother's city and country of residence match the published city and country of residence of Account Owner Bergmann. The Claimant's grandmother's city and country of residence match the unpublished city and country of residence of Account Owner Errera. The Claimant also identified Account Owner Errera's married name and that the Account Owners were related and shared the last name Padoa, which matches unpublished information about the Account Owners contained in the Bank's records. The CRT notes that there are no other claims to this account.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that Account Owner Bergmann was Jewish, that she resided in Nazi-allied Italy, and that she fled in 1941 to Switzerland, where she was arrested and interned, along with her husband, until 1944. The Claimant further stated that Account Owner Errera was Jewish and that she resided in Nazi-allied Italy until her death in 1941.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Bergmann and Account Owner Errera were his mother and grandmother, respectively. These documents include copies of official genealogical registry certificates, which indicate that the Claimant and the Account Owners are related.

The Issue of Who Received the Proceeds

Given that Account Owner Bergmann was arrested and detained in Switzerland from 1941 until 1944; that Account Owner Errera died in Nazi-allied Italy in 1941; 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 Bergmann was his mother and that Account Owner Errera was his grandmother, and those relationships justify an Award. Finally, 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 jointly held one account, the type of which is not indicated. 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 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.

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
23 March 2007