

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Prof. Luigi Dell'Acqua

in re Accounts of Guido Valerio and Olga Valerio-Kogan

Claim Numbers: 218303/AX; 218304/AX

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the "Claimant") to the published accounts of Guido Valerio ("Account Owner Guido Valerio") and Olga Valerio-Kogan ("Account Owner Olga Valerio") (together the "Account Owners") at the Lausanne and London branches 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 two Claim Forms identifying the Account Owners as his paternal grandparents, Guido Valerio, who was born on 17 February 1877 in Milan, Italy, and Olga Valerio, née Kogan, who was born on 21 December 1882 in Odessa, Russia (now the Ukraine). The Claimant indicated that his grandparents were married on 2 May 1903 in Milan, and that his grandmother was Jewish. The Claimant stated that his grandparents had four children: his father, [REDACTED], who was born on 20 March 1904 in Milan and died on 8 December 1979 in Milan; [REDACTED], who died in Milan; [REDACTED], who died at an unknown location; and [REDACTED], who died in Venice, Italy. The Claimant further indicated that his grandparents and their children lived at Via Borgonuovo 24 in Milan. The Claimant stated that his grandfather died on 31 March 1943 in Gironico al Monte, Italy. In a telephone conversation with the CRT on 23 January 2002, the Claimant stated that in September 1943, his grandmother and her children fled to Switzerland, where they stayed for two or three years as refugees. The Claimant further stated that his grandmother died on 5 March 1956 in Milan.

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 those of Victims of Nazi Persecution (the "ICEP List"), Guido Valerio and Olga Valerio-Kogan are indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank's record evidences the existence of three accounts held jointly by Guido Valerio and Olga Valerio-Kogan.

The Claimant submitted documents including his father's passport, indicating his father's name was [REDACTED], and that his parents were Guido Valerio and Olga Valerio, née Kogan, of Milan, and his own registry certificate from Milan, indicating his father was [REDACTED]. In a letter to the CRT, dated 20 February 2003, the Claimant indicated that his grandparents have other surviving heirs, but that he does not wish to represent them. The Claimant indicated that he was born on 26 April 1942 in Milan.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were Guido Valerio and *Madame* (Mrs.) Olga Valerio-Kogan, who resided at Via Borgonuovo 24 in Milan, Italy, and who were Italian citizens.

The Bank's record indicates that the Account Owners jointly held a demand deposit account in Pounds Sterling and a custody account, both numbered 7405, at the Lausanne branch of the Bank, as well as an account, numbered 6108, at the London branch of the Bank. The type of the latter account is not indicated.

As for the accounts held at the Bank's Lausanne branch, the Bank's record does not show when the accounts at issue were closed or to whom they were paid, nor does this record indicate the value of these accounts. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find the demand deposit account in Pounds Sterling and the custody account in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

The CRT notes that even though the Bank's record indicates the existence of the account of unknown type held at the Bank's London branch, the auditors who carried out the ICEP Investigation did not report it. Therefore, there is no information as to the disposition of that account.

There is no evidence in the Bank's record that the Account Owners or their heirs closed the accounts at issue 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 (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 as his grandparents. His grandparents' names and country and city of residence match the published names and

country and city of residence of the Account Owners. The Claimant identified his grandparents' street address, which matches unpublished information about the Account Owners contained in the Bank's record. In support of his claim, the Claimant submitted his father's passport, indicating that his father's name was [REDACTED], whose parents were Guido Valerio and Olga Valerio, née Kogan, of Milan, providing independent verification that the people who are claimed to be the Account Owners have the same names and resided in the same city recorded in the Bank's record as the names and city of residence of the Account Owners. 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 Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Olga Valerio from Italy, who entered Switzerland as a civil refugee on 16 September 1943, which matches the information about Account Owner Olga Valerio provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Status of the Account Owners as Victims of Nazi Persecution

The CRT notes that Account Owner Guido Valerio died on 31 March 1943, and the Claimant has made a plausible showing that Account Owner Olga Valerio was a Victim of Nazi Persecution. The Claimant stated that Account Owner Olga Valerio was Jewish, and that she fled from Italy to Switzerland to escape persecution after the Nazi invasion in September 1943. As noted above, a person named Olga Valerio was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting information and documents demonstrating that the Account Owners were his grandparents. These documents include, the Claimant's father's passport, indicating his father's name was [REDACTED], whose parents were Guido Valerio and Olga Valerio, née Kogan, of Milan, and his own registry certificate from Milan, indicating his father was [REDACTED]. The CRT notes that the Account Owners have other surviving heirs, but that the Claimant has indicated he does not wish to represent them.

The Issue of Who Received the Proceeds

With respect to the accounts held at the Lausanne branch of the Bank, given that there is no record of the payment of the Account Owners' accounts to them, nor any record of a date of closure of the accounts; that the Account Owners and their heirs would not have been able to obtain information about their 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 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.

The CRT notes that given that the unknown type of account was held at the London branch of the Bank and that it does not have any information regarding the disposition of the account, the CRT will reach a decision with respect to this account subsequent to its further research.

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 Owners were his grandparents, and that relationship justifies 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 accounts.

Amount of the Award

In this case, the Account Owners held one custody account, one demand deposit account, and one 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 a custody account was 13,000.00 Swiss Francs, the average value of a demand deposit account was 2,140.00 Swiss Francs,. Thus, the total 1945 average value of the accounts at issue is 15,140.00 Swiss Francs. 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 189,250.00 Swiss Francs.

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
8 June 2004