

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 de Coulon

in re Accounts of F. Gentili di Giuseppe

Claim Numbers: 210978/HS; 216187/HS

Award Amount: 53,500.00 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] (“Bank I”) and the Basel branch of the [REDACTED] (“Bank II”).

In a separate decision, approved on 15 September 2003 (the “September 2003 Award”), the Court approved an award to the Claimant for Account Owner’s accounts at Bank II and at the Basel branch of Bank I, while reserving decision on two accounts at the Geneva branch of Bank I. This Certified Award is to the two accounts of the Account Owner at the Geneva branch of Bank I.

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's representative, after the Second World War Marcello Gentili di Giuseppe tried numerous times to claim a safe deposit box belonging to his late father (Federico Gentili di Giuseppe) at a bank in Geneva, but the bank repeatedly denied the existence of such an account. 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 ("SF"), according to Bank I's records. Bank I's records also indicate that the account was closed by bank fees on 7 March 1952 with a balance of SF 5.00. This account was awarded to the Claimant in the September 2003 Award.

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 Bank I's records, these accounts were frozen pursuant to a Swiss federal decree of 6 July 1940. Bank I's records indicate that the Account Owner's heirs claimed the accounts in 1955, and that the Account Owner's records were transferred to Bank I's litigation department. 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. There is no evidence in Bank I's records that the Account Owner or his heirs closed these accounts and received the proceeds themselves. These two accounts are the subject of the present Award.

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. These two accounts were awarded to the Claimant in the September 2003 Award.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of Bank II, which acquired Bank I after the Second World War, in order to obtain additional information about the Account Owner's accounts ("Voluntary Assistance"). Bank II provided the CRT with additional documents. These documents, consisting of lists of account owners and account cards, do not provide any additional information.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 has plausibly identified the Account Owner. His grandfather's first initial, last name, and city of residence match the published first initial, last name, and city of residence of the Account Owner. In support of his claim, the Claimant submitted the birth certificates of Marcello and Adriana Gentili di Giuseppe and the death certificate of Federico Gentili di Giuseppe, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city as the Account Owner. The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the children and heirs of the Account Owner were Victims of Nazi Persecution. The Claimant stated that the Account Owner died of natural causes in Paris in April 1940, nearly one month before the Nazi invasion of France. However, the Claimant indicated that the heirs of the Account Owner, who were also Jewish, lived in Paris 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 specific information and his own and his mother's birth certificates, indicating that the Account Owner was his grandfather.

The Issue of Who Received the Proceeds

As indicated earlier, three of the Account Owner's accounts were awarded to the Claimant in the September 2003 Award. As for the remaining two accounts, both held at the Geneva branch of Bank I under the number 30509, the CRT notes that Bank I's records indicate the Account Owner's heirs claimed the accounts in 1955. However, these records indicate that the accounts were not closed until 1964, nine years after the records were sent to Bank I's litigation department. Given this nine-year gap and Bank I's indication that the Account Owner's other account at Bank I was closed by fees; that there is no record of the payment of the Account Owner's accounts to him or to his heirs; that the Account Owner's heirs would not have been able to obtain information about the accounts after the Second World War 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 (f), (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 and the parties he represents. First, the claims are 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. Third, the CRT has determined that it is plausible that neither the Account Owner or his heirs received the proceeds of the claimed accounts.

Amount of the Award

For the purpose of this award, the Account Owner held two demand deposit accounts. 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 Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was SF 2,140.00. Thus, the combined 1945 average value for the two accounts at issue is SF 4,280.00. 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 53,500.00.

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 the 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 the widow of Marcello Gentili di Giuseppe, Christiane 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 each entitled to one-sixth 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
18 December 2007