

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]
also acting on behalf of [REDACTED], [REDACTED]
and [REDACTED]
represented by [REDACTED]

in re Account of *Frau* Else Casper-Exiner

Claim Numbers: 500196/PY; 500223/PY; 500373/PY¹

Award Amount 10,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Else Casper-Exiner (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 1] has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owner as her paternal aunt, Else Casper, née Exiner, who was born in Milicz, Poland, to [REDACTED] and [REDACTED]. The Claimant stated that her aunt was married to [REDACTED], a merchant, and that they had no children. Claimant [REDACTED 1] further stated that her aunt, who was Jewish, resided in Berlin-Charlottenburg, Germany, at Gervinusstrasse 12a. According to Claimant [REDACTED 1], after [REDACTED] died in Berlin on 23 January 1938, her aunt fled Berlin to Palestine in 1939, where she remained until her death, sometime in the 1950s. In support of her claim, Claimant [REDACTED 1] submitted a detailed family tree; a photograph of her aunt; and [REDACTED]’s certificate of inheritance, issued on 20 August 1938 in Berlin-Charlottenburg, which indicates that he was married to *Frau* (Mrs.) Else Casper, née Exiner. Claimant [REDACTED 1] indicated that she was born on 6 July 1926 in Berlin.

¹ The Claimants submitted additional claims to the account of [REDACTED], which are registered under the Claim Numbers 205949 and 212850. The CRT will treat the claims to this account in a separate decision.

Claimant [REDACTED 2], who is Claimant [REDACTED 1]'s sister, submitted a Claim Form also identifying the Account Owner as her paternal aunt, Else Casper, née Exiner, and providing substantially the same information about her aunt as Claimant [REDACTED 1]. Claimant [REDACTED 2] also indicated that Else Casper had four siblings: [REDACTED], [REDACTED] (the Claimants' father), [REDACTED] and [REDACTED]. Claimant [REDACTED 2] also submitted a copy of [REDACTED]'s inheritance certificate. Claimant [REDACTED 2] indicated that she was born on 29 October 1921 in Berlin.

Claimant [REDACTED 2] is representing her first cousin, [REDACTED], née [REDACTED], who was born on 14 March 1917 and who is the daughter of Else Casper's brother, [REDACTED]. Claimant [REDACTED 2] is also representing her nephews, [REDACTED] and [REDACTED], who are the sons of [REDACTED] and the grandsons of Else Casper's brother, [REDACTED], who were born in Australia on 17 August 1952 and 16 February 1957, respectively.

Information Available in the Bank's Record

The Bank's record consists of an extract from a suspense account ledger. According to this record, the Account Owner was *Frau* (Mrs.) Else Casper-Exiner. The Bank's record indicates that the Account Owner held a savings/passbook account numbered 29112. The account was transferred on 19 July 1949 to a suspense account for dormant accounts. The amount in the account on the date of its transfer was 4.80 Swiss Francs.

The Bank's record does not show when the account at issue was closed, or to whom it was paid. 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 and that it had been dormant for at least ten years since 1945. The Bank's record does not show the Account Owner's place of residence but the ICEP auditors determined that the Account Owner was from an Axis-controlled country. There is no evidence in the Bank's record that the Account Owner or her 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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants' aunt's name and marital status match the published name and marital status of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name and marital status. The Bank's record however did indicate that the Account Owner was from an Axis-controlled country, which is consistent with the information provided by the Claimant that their aunt resided in Germany. The CRT further notes that the name Else Casper-Exiner appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. In support of their claims, the Claimants submitted specific biographical information about their aunt and family; a detailed family tree; a photograph of their aunt; and [REDACTED]'s, the Account Owner's husband, certificate of inheritance, issued on 20 August 1938 in Berlin-Charlottenburg, which indicates that he was married to *Frau* Else Casper, née Exiner. The CRT notes that the Account Owner and the Claimants share the same maiden name, Exiner. The CRT also notes that it is plausible that the 1938 certificate of inheritance which indicates the Account Owner's name, as contained in the Bank's records, is a document which most likely only a family member would possess. Finally, the CRT notes that there are no other claims to this account. 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 Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that she fled Germany to Palestine in 1939.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that the Account Owner was their paternal aunt by submitting specific biographical information about their aunt and family; a detailed family tree; a photograph of their aunt; and [REDACTED]'s, the Account Owner's husband, certificate of inheritance, issued on 20 August 1938 in Berlin-Charlottenburg, which indicates that he was married to *Frau* Else Casper, née Exiner. As stated above, the CRT notes that the Account Owner and the Claimants share the same maiden name, Exiner. The CRT also notes, as stated above, that it is plausible that the 1938 certificate of inheritance which indicates the Account Owner's name, as contained in the Bank's records, is a document which most likely only a family member would possess.

The Issue of Who Received the Proceeds

The Account Owner's savings/passbook account was transferred on 19 July 1949 to a suspense account for dormant accounts. The Bank's record does not show when the account at issue was closed, or to whom it was paid. The ICEP did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. They also indicated that there was no evidence of activity on this account after 1945 and that it had been dormant for at least ten years since 1945.

Given that the account was transferred to a suspense account for dormant accounts; that there is no record of the payment of the Account Owner's account to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 (b), (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 Owner or her 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their aunt, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a savings/passbook account. The Bank's record indicates that the value of the savings/passbook account as of 19 July 1949 was 4.80 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings/passbook was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 830.00 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 10,375.00 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 who have submitted a claim, in equal shares by representation. In this case, the Claimants are the children of Else Casper's brother, [REDACTED]. Claimant [REDACTED 2] is representing her cousin, [REDACTED], née [REDACTED], who is the daughter of Else Casper's brother, [REDACTED], and her two nephews, who are the grandsons of the Else Casper's brother, [REDACTED]. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to share one-third of the total award amount (or one-sixth each of the total award amount). [REDACTED], the daughter of the Account Owner's brother, [REDACTED], is entitled to one-third of the total award amount. [REDACTED] and [REDACTED], the grandsons of the Account Owner's brother, [REDACTED], are each entitled to share one-third of the total award amount (or one-sixth each of the total award amount).

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
August 20, 2003