

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Accounts of Ernst Cassirer

Claim Numbers: 213992/SJ, 214369/SJ

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Ernst Cassirer (the “Account Owner”) at the [REDACTED] (the “Bank”).¹

All awards are published, but where a claimant has requested confidentiality, as 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

The Claimants, who are cousins, submitted Claim Forms identifying the Account Owner as their paternal grandfather, Ernst Cassirer, who was born in 1874 in Breslau, Germany, and was married to [REDACTED] with whom he had three children: [REDACTED] (Claimant [REDACTED 1]’s father), [REDACTED] (Claimant [REDACTED 2]’s father), and [REDACTED]. The Claimants further stated their grandfather, who was Jewish, was a prominent philosopher and professor who lectured at the university in Hamburg, Germany, until 1933, when he fled Germany. Claimant [REDACTED 2] also indicated that his grandfather used an address in Switzerland between 1919 and 1933.

The Claimants stated that from 1933 to 1935 their grandfather worked as a professor at Oxford University in the United Kingdom, and then from 1935 to 1941 at Göteborg University in Sweden. The Claimants further indicated that their grandfather obtained Swedish citizenship in

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”), Ernst Cassirer is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

1936. The Claimants added that in 1941 their grandfather went to New York, United States, and that he continued to work as a professor in New York and in New Haven, Connecticut, until his death in New York on 13 April 1945. The Claimants indicated that Ernst Cassirer's wife [REDACTED] died in New York in 1960; that his son [REDACTED] died in London, the United Kingdom, in 1979; that his son [REDACTED] died in Göteborg in 1958; and that his daughter [REDACTED] died without issue in New York in 1998. The Claimants submitted documents in support of their claims, including Claimant [REDACTED 2]'s birth certificate; Claimant [REDACTED 1]'s birth certificate, indicating that her father was [REDACTED]; and [REDACTED]'s British certificate of naturalization, indicating that his father was Ernst Alfred Cassirer.²

Claimant [REDACTED 2] indicated that he was born on 26 June 1933 in Berlin, Germany, and Claimant [REDACTED 1] indicated that she was born on 10 March 1930 in Hamburg.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a safe deposit box registry card. According to these records, the Account Owner was *Prof.* Ernst Cassirer who resided in Hamburg, Germany, and at Klusstrasse 7 in Zurich, Switzerland. The Bank's records indicate that the Account Owner held a custody account, numbered L39792, which was opened on 31 July 1930 and closed on 18 March 1933, and a safe deposit box, numbered S967, which was opened on 18 March 1933 and closed on 19 August 1936.

The Bank's records do not indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owner or his heirs closed the accounts 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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' grandfather's name and country of residence match the published name and country of residence of the Account Owner. The Claimants further identified the Account Owner's city of residence, that he

² The CRT notes that the Cassirers were a well-known extended family. For more information regarding the Cassirer family, visit [REDACTED] (last visited 22 October 2004).

held the title of “Professor,” and that he used an address in Switzerland in the early 1930s, all of which matches unpublished information about the Account Owner contained in the Bank’s records.

In support of her claim, Claimant [REDACTED 1] submitted documents, including a copy of her father’s British certificate of naturalization, indicating that he was the son of Ernst Alfred Cassirer, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank’s records as the name of the Account Owner.

The CRT notes that the name Ernst Cassirer appears only once 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”). The CRT further notes that there are no other claims to these accounts.

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 he was forced to abandon his professorship in Hamburg and flee Germany in 1933.

The Claimants’ Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimants’ grandfather. These documents include a copy of Claimant [REDACTED 1]’s father’s British certificate of naturalization, indicating that he was the son of Ernst Alfred Cassirer, as well as Claimant [REDACTED 1]’s birth certificate, indicating that she is the daughter of [REDACTED]. The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank’s records, which indicates that the Account Owner was well known to the Claimants as a family member, and all this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank’s records indicate that the custody account numbered L39792 was closed on 18 March 1933 and that the safe deposit box, numbered S967, was closed on 19 August 1936.

With respect to the custody account, numbered L39792, given that the date of closure of the custody account coincides with the date of opening of the safe deposit box, the CRT concludes that the Account Owner was able to close this account and received the proceeds of this account.

With respect to the safe deposit box, numbered S967, the CRT notes that the Bank’s records indicate that the account was closed on 19 August 1936, at which time, according to information provided by the Claimant and available in the Bank’s records, the Account Owner was outside Nazi-dominated territory. However, given that the Bank’s records do not indicate to whom the

account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 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 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 grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the safe deposit box.

Amount of the Award

In this case, the Award is for one safe deposit box. 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 (the "ICEP Investigation"), in 1945 the average value of a safe deposit box was 1,240.00 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 15,500.00.

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. In this case, the Claimants are each grandchildren of the Account Owner. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 1] are each entitled to one-half 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
18 November 2004