

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1],

[REDACTED 2]

and [REDACTED 3]

in re Account of Max Franck

Claim Numbers: 205619/MBC, 220996/MBC; 770171/MBC¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) and [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the published account of Max Franck (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).²

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 Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) and Claimant [REDACTED 2], who

¹ Claimant [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 008 102, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 770171.

² The CRT notes that 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”) identified the Account Owner alternatively as Max Frank and Max Franck, and, accordingly, published the name on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”) under both spellings.

is Claimant [REDACTED 1]'s daughter, submitted a Claim Form, identifying the Account Owner as their father-in-law and paternal grandfather, respectively, Max Frank, who was born on 28 November 1880 in Nonnenweier, Germany, and was married to [REDACTED] on 22 January 1918 in Strasbourg, France. According to Claimant [REDACTED 1] and Claimant [REDACTED 2], their relative, who was Jewish, was in the textile business and owned a textile factory outside Mannheim, Germany. Claimant [REDACTED 1] and Claimant [REDACTED 2] indicated that their relative had two sons: [REDACTED], who was married to Claimant [REDACTED 3], and [REDACTED], to whom Claimant [REDACTED 1] was married and who was the father of Claimant [REDACTED 2]. Claimant [REDACTED 1] and Claimant [REDACTED 2] stated [REDACTED] was a student at a residential agricultural high school in the French speaking part of Switzerland, and that money from a Swiss bank account was used for the tuition payments. In a telephone conversation with the CRT on 19 November 2004, Claimant [REDACTED 1] indicated that the Frank family established a second residence in Paris, France in the mid-1930s, where Max Frank's wife, [REDACTED], who was a French national, resided with [REDACTED], who changed his name to [REDACTED] after his arrival in Paris. Claimant [REDACTED 1] further stated that, at that time, her father-in-law regularly travelled between Paris, Mannheim and Switzerland. Claimant [REDACTED 1] indicated that her father-in-law left Germany for Switzerland on an unspecified date but returned to settle accounts in Mannheim, at which time he was captured and deported to Auschwitz, where he perished in approximately 1944. Claimant [REDACTED 2] indicated that her grandfather had remained in Germany following his family's departure to France in 1939, intending to follow them at a later date, but was seized and deported to Auschwitz on 10 August 1942.

In support of her claim, Claimant [REDACTED 2] submitted numerous documents, including an extract from the Family Book of her parents, [REDACTED] and [REDACTED 1], which identifies Max Frank as [REDACTED]'s father, her parents' marriage certificate, which shows her mother, [REDACTED], married her father, [REDACTED], on 17 April 1959, and her own birth certificate which confirms that her date of birth was 13 February 1964, and that her maiden name is [REDACTED]. Claimant [REDACTED 2] also submitted an extract from the Strasbourg register of marriages certifying the marriage of her grandfather, Max Frank, to [REDACTED] in Strasbourg on 28 November 1918, and a letter from an organization in Paris identified only as "S.E.R" dated 17 December 1945, which confirms Max Frank's deportation to Auschwitz and that his name did not appear on any of the lists of liberated deportees. Finally, Claimant [REDACTED 2] submitted the birth certificate of her grandfather, Max Frank, which shows that he was born on 28 November 1880 in Nonnenweier, and that of her father, [REDACTED], which certifies that he was born on 19 January 1923 to the businessman, Max Frank, and his wife [REDACTED] (née [REDACTED]).

Claimant [REDACTED 1] stated that she was born on 9 February 1928 in Schwelm (Westfalen), Germany. Claimant [REDACTED 2] stated that she was born on 19 February 1964 in Kingston, New York, the United States.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her father-in-law, Max Frank, who was born on 28 November 1880 in Nonnenweier, Germany, and was married to [REDACTED] on 22 January 1918 in Strasbourg, France. Claimant [REDACTED 3]

indicated that her father-in-law, who was Jewish, was a self-employed businessman who worked in Mannheim. In a telephone conversation with the CRT on 17 November 2004, Claimant [REDACTED 3] stated that her father-in-law probably worked in the textile industry. Claimant [REDACTED 3] stated that in Mannheim her father-in-law was a member of the Jewish community. According to Claimant [REDACTED 3], her father-in-law's eldest son, her late husband, [REDACTED], was sent to a Swiss boarding school in approximately 1936. Claimant [REDACTED 3] further indicated that Max Frank's wife, [REDACTED], and her youngest son, [REDACTED], moved to Paris by 1939. Claimant [REDACTED 3] indicated that Max Frank was often in Paris, where, apart from visiting his wife and son, he also engaged in business. Claimant [REDACTED 3] further stated that that her father-in-law probably gave his Paris address to the Bank. Finally, Claimant [REDACTED 3] indicated that Max Frank was deported to a ghetto and, in August 1942, to Auschwitz, where he was murdered.

In support of her claim, Claimant [REDACTED 3] submitted various documents, including an extract from a death registry in a city in the Haute-Pyrénées region in France (the name of which is illegible), which confirms that Max Frank was born in Nonnenweier to [REDACTED] [sic] and [REDACTED], née [REDACTED], and that he perished in Auschwitz. Claimant [REDACTED 3] also submitted a protocol from the District Court of Karlsruhe in 1956 regarding [REDACTED]'s attendance at a Swiss boarding school, and a certificate from the School of Theoretical and Practical Agriculture, Grangeneuve (*"Ecole Theorique et Pratique d'agriculture"*), in Fribourg, Switzerland certifying [REDACTED]'s regular attendance at the school between April 1937 and April 1939. Finally, Claimant [REDACTED 3] submitted the birth certificate of her husband, [REDACTED], which shows that he was born on 14 February 1920, her own marriage certificate, which shows that she was married to [REDACTED] on 20 April 1959, her husband's death certificate, which states that Claimant [REDACTED 3] was married to [REDACTED], and that he died on 25 September 1993, and a certificate of inheritance dated 6 December 1993, identifying Claimant [REDACTED 3] as [REDACTED]'s wife and sole heir.

Claimant [REDACTED 3] stated that she was born on 31 July 1927 in Korbach, Germany.

Claimant [REDACTED 3] previously submitted an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Max Frank.

Information Available in the Bank's Records

The Bank's records consist of a customer card, a printout from the Bank's database, a list of Parisian clients who had not been in contact with the Bank since 1 January 1940, and a list of accounts.

According to these records, the Account Owner was Max Franck who resided in Hôtel Georges V, Avenue Georges V, Paris 8ème, France and 7 rue Le Sueur, Paris 16e. The Bank's records indicate that the Account Owner had not been in contact with the Bank since 1 January 1940.

The Bank's records indicate that the Account Owner held a demand deposit account, numbered 42398, which was opened on 28 September 1937.

The account opening card also contains a notation stating that, on 1 October 1937, *Messrs Alexander Jacob & Co* of London, England, gave the Bank a reference for Max Franck writing that he was personally known to them and of good character. The notation further states that *Messrs Alexander Jacob and Co.* indicated that Mr Frank was the Chairman of the Board of Directors of the company *Cartonneries de la Rochette* as well as of numerous other companies.

The Bank's records indicate that the balance of the account in February 1952 was 174.00 Swiss Francs ("SF"). The Bank's records further indicate that the account was closed on 28 November 1958. The amount in the account on the date of its closure was SF 132.00. 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") reported that the account was closed by Bank's fees.

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 name, city and country of residence of the Claimants' relative match the published name, city and country of residence of the Account Owner. The CRT notes that the main residence of the Claimants' relative, Max Frank, was in Mannheim where he had a textile factory. However, the Claimants each independently stated that the Frank family had a second residence in Paris where Max Frank's wife, [REDACTED], and her youngest son resided and where Max Frank was a frequent visitor. Consequently, the CRT finds it plausible that the Account Owner may have provided an address in Paris to the Bank.

In support of their claims, the Claimants submitted numerous documents, including the birth certificate of Max Frank; an extract from the Family Book of Claimant [REDACTED 2]'s parents, [REDACTED] and [REDACTED 1], which identifies Max Frank as [REDACTED]'s father; an extract from the Strasbourg register of marriages, certifying the marriage of Max Frank and noting that he was born in Nonnenweier, Germany; a letter from the organization "S.E.R" in Paris confirming Max Frank's deportation to Auschwitz in 1942; and an extract from a death registry from a city in the Haute-Pyrénées region in France, indicating that Max Frank perished in Auschwitz. These documents provide 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.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Max Frank, and indicates that his date of birth was 28 November 1880,

which matches the information about the Account Owner provided by all three Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Finally, the CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Max Frank prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1], and the other two claimants who provided information substantially similar to that provided by Claimant [REDACTED 1]. The CRT notes that in her IQ, Claimant [REDACTED 1] identified [REDACTED 3] as the wife of the Account Owner's eldest son, [REDACTED].

The CRT notes that the other claims to this account were disconfirmed because the claimants did not establish a connection to Paris or gave a date of birth for the claimed account owner which was inconsistent with the Account Owner's profession at the time the account was opened. Taking all these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has 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 deported to Auschwitz in August 1942. As noted above, Claimant [REDACTED 2] also submitted a letter from an organisation called S.E.R. which confirmed her grandfather's deportation to Auschwitz and that his name did not appear on any of the lists of liberated deportees after the conclusion of the Second World War.

As noted above, a person named Max Frank was included in the CRT's database of victims.

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 is the father-in-law of [REDACTED 1] and [REDACTED 3] and the paternal grandfather of [REDACTED 2]. These documents include the extract from the Family Book and a copy of the marriage certificate of [REDACTED] and [REDACTED] which confirm that Claimant [REDACTED 1] was married to [REDACTED] and that he was the son of Max Frank.

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 3] each filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and Claimant [REDACTED 3] and Claimant [REDACTED 1], prior to the publication in February 2001 of the

ICEP List; and that each of the Claimants also identified information that matches information contained in the Yad Vashem records. The CRT further notes that the Claimants submitted copies of Max Frank's birth and marriage certificates and an extract from a register of deaths from a city in the Haute-Pyrénées region in France, confirming Max Frank's death in Auschwitz. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. The CRT further notes that the Claimants also submitted copies of the marriage certificates of [REDACTED] and [REDACTED]. These documents provide independent verification that the Claimant's relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and 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 respective Claim Forms and IQs.

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 account was closed on 28 November 1958. The auditors who carried out the ICEP Investigation reported that the account was closed by fees.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimants [REDACTED 3] and [REDACTED 2]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her father-in-law and the Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was her paternal grandfather and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner Holder nor his heirs received the proceeds of the claimed account.

The CRT notes that Claimant [REDACTED 3], as the Account Owner's daughter-in-law, and who does not have any children who have submitted a claim, has a better entitlement to the account than Claimant [REDACTED 1], the Account Owner's other daughter-in-law, whose daughter, Claimant [REDACTED 2], has submitted a claim. Similarly, the CRT notes that Claimant [REDACTED 2], as the Account Owner's granddaughter and therefore direct descendant, also has a better entitlement to the account than her mother, Claimant [REDACTED 1], who is related to the Account Owner only by marriage.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account in February 1952 was SF 174.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 120.00, which reflects standardized bank fees charged to the account between 1945 and 1952. Consequently, the adjusted balance of the account at issue is SF 294.00 Swiss Francs. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to

be SF 2,140.00. 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 SF 26,750.00.

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 favour 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 a 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 for the purposes of this Article.

As indicated above Claimant [REDACTED 3] and Claimant [REDACTED 2] have a better entitlement to the account than Claimant [REDACTED 1].

Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 3] 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
30 December 2004