

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Dr. Walter Eric Friedrich

in re Account of Erich Frank

Claim Number: 501744/GO

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Hedwig Bernstein.¹ This Award is to the published accounts of Erich Frank (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 a Claim Form identifying the Account Owner as his maternal grandmother’s uncle, Dr. Erich Frank. The Claimant indicated that his relative, who was Jewish, resided in Marburg an der Lahn, Germany. The Claimant indicated that Dr. Erich Frank was a Professor of Philosophy at the University of Marburg. The Claimant further indicated that after Hitler came to power, his relative fled Germany to the United States, where he resided in Philadelphia, Pennsylvania. The Claimant indicated that his grandmother’s uncle later died in a car accident while on a trip to Europe.

The Claimant also indicated that Dr. Erich Frank, who was unmarried and had no children, had three siblings: [REDACTED], [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED] (the Claimant’s maternal great-grandmother). The Claimant indicated that his great-grandmother had three children: [REDACTED], née [REDACTED], [REDACTED], and [REDACTED], née [REDACTED] (the Claimant’s maternal grandmother). The Claimant indicated that [REDACTED], the Claimant’s mother, was [REDACTED]’s daughter.

The Claimant submitted copies of documents in support of his claim, including: (1) his grandmother’s aunt’s last will, issued on 9 October 1929 in Vienna, Austria, indicating that

¹ The CRT will treat the claim to this account in a separate determination.

[REDACTED] (the Claimant's maternal great-grandmother), [REDACTED] and Dr. Erich Frank were the siblings and the heirs of [REDACTED], née [REDACTED], that Dr. Erich Frank was a university professor, and that he resided in Marburg an der Lahn; (2) his grandmother's aunt's death report, issued on 8 May 1930 by the District Court (*Bezirksgericht*) of Vienna, indicating that [REDACTED] died on 26 April 1930, that Dr. Erich Frank was one of her heirs, that he was a university professor, and that he resided in Marburg an der Lahn; (3) a certificate of inheritance (*Einantwortungsurkunde*) relating to the estate of [REDACTED], indicating that Dr. Erich Frank was an heir to her estate, that he was a university professor, and that he resided in Marburg an der Lahn; (4) his own birth certificate, issued on 26 June 1937, indicating that [REDACTED]² was born on 17 May 1937 in Vienna and that [REDACTED] and [REDACTED], née [REDACTED], were his parents; and (5) an excerpt from his mother's unpublished autobiography, written in approximately 1981, indicating that [REDACTED]'s family was Jewish, that Erich Frank was a professor of Philosophy at Heidelberg University, that after Hitler came to power he fled Germany to the United States, and that that he died in a car accident while on a trip to Europe.³

The Claimant indicated that he was born on 17 May 1937 in Vienna.

Information Obtained by the CRT

According to research conducted by the CRT, Erich Frank was born in 1883 and studied philology and classics at the universities of Vienna, Freiburg, and Berlin. In 1907 he turned to philosophy, which he studied in Heidelberg under Heinrich Rickert and Wilhelm Windelband. His philosophical career in Germany was brief but distinguished. In 1923 he became professor at Heidelberg, and five years later he was appointed Martin Heidegger's successor in Marburg. Frank was removed from his position on 31 December 1935, along with other Jewish academics at the University of Marburg, including Paul Jacobsthal, Erich Auerbach, Otto Homburger, Karl Löwith, and Richard Krautheimer.⁴ Three years after his dismissal from Marburg, Frank came to Harvard on a research fellowship and made America his second home.

Almost all of Frank's works reflect his double interest in philosophy and history and his efforts to combine historical knowledge and philosophical thought: *Plato und die sogenannten Pythagoreer* (Plato and the so-called Pythagoreans) (Halle, 1923); *Wissen, Wollen, Glauben* (Knowledge, Will, Belief), a collection of English and German historical and speculative essays, edited with an appreciation by Ludwig Edelstein (Zurich, 1955), of which the title essay

² The CRT notes that the name [REDACTED] is a German version of the name [REDACTED].

³ The CRT notes that in her unpublished autobiography, the Claimant's mother stated that Erich Frank was a Professor of Philosophy at Heidelberg University. Other documents pertaining to the family, however, indicate that he was a professor at the University of Marburg. According to the CRT's research, Erich Frank was a professor at Heidelberg University from 1923 to 1928, at which time he moved to the University of Marburg.

⁴ See University of Marburg archives, StAM 305a acc. 1975/79, 116, Bestand Universität. See also http://elisabethschule.de/schueler/schuelerzeitung/experiment_sonder.html (last visited 8 May 2007).

represents Frank's most original contribution to philosophy; *Philosophical Understanding and Religious Truth* (New York, 1945).⁵ Erich Frank died in 1949.⁶

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Erich Frank, who was a university professor (*Universitätsprofessor*) and resided in Marburg an der Lahn, Germany.

The Bank's record indicates that the Account Owner held one custody account, numbered L 48625, which was opened on 17 November 1932 and closed on 9 March 1933, and one demand deposit account, which was opened on 30 November 1932 and closed on an unknown date. The amount in 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 at issue and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandmother's uncle's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner's city of residence, profession and title, which matches unpublished information about the Account Owner contained in the Bank's record.

In support of his claim, the Claimant submitted documents, including copies of his grandmother's aunt's death report and last will, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's record as the name and city of residence of 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 Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he resided in Nazi Germany, that he was removed from his position as Professor of Philosophy at the University of Marburg on 31 December 1935 because he was Jewish, and that he subsequently fled Germany to the United States.

⁵ Other works by Erich Frank include "Das Prinzip der dialektischen Synthesis und die Kantische Philosophie," in *Kant-Studien, Ergänzungsheft* No. 21 (1911), and "Mathematik und Musik und der griechische Geist," in *Logos* 9 (2) (1920): 222–259. See also his editions of Fichte's *Die Anweisung zum seligen Leben* (Jena, 1910) and of the so-called *Nachtwachen von Bonaventura* by Clemens Brentano (Heidelberg, 1912), and his literary and philological studies of Schelling and Brentano in *Sitzungsberichte der Heidelberger Akademie der Wissenschaften, Philosophische–Historische Klasse*, 1 Abh. (1912); and *Germanisch–Romanische Monatsschrift* 4 (1912): 417–440.

⁶ See <http://www.bookrags.com/research/frank-erich-18831949-eoph/> (last visited 8 May 2007).

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's great-great-uncle. These documents include: (1) his grandmother's aunt's last will, indicating that Ida Reiman, the Claimant's maternal great-grandmother, and Dr. Erich Frank were the siblings and the heirs of Hedwig Bernstein; (2) a certificate of inheritance for the Claimant's maternal grandmother's aunt, indicating that Ida Reiman and Dr. Erich Frank were Hedwig Bernstein's heirs; (3) an excerpt from his mother's autobiography, indicating that Franziska Lenard's maternal great-uncle was Erich Frank and that her grandmother was Ida Reiman; and (4) his own birth certificate, indicating that his parents were Georg Lenard and Franziska Lenard, née Perten.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until he fled to the United States, after Hitler came to power, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's account to him, nor any record of date of closure for the demand deposit account; 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 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; given the application of Presumptions (a), (h), and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendices A and C),⁷ 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. 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 Owner was his grandmother's uncle, 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 claimed account.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here,

⁷ Appendix C appears on the CRT II website -- www.crt-ii.org.

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 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”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”), and the average value of a demand deposit account was SF 2,140.00. The total of the two averages is SF 15,140.00. 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 189,250.00.

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
29 May 2007