

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Martin Frank

Claim Numbers: 218121/HS; 600053/HS¹

Award Amount: 24,177.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], (the “Claimant”) to the unpublished account of Martin Frank (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).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 to the Holocaust Claims Processing Office (“HCPO”) and a Claim Form identifying the Account Owner as his father, Martin Frank, who was born on 7 July 1879 in Heiligenstadt, Germany, and resided in Munich, Germany, with his wife, [REDACTED], née [REDACTED], and the Claimant. The Claimant indicated that his father, who was Jewish, owned a men’s clothing factory in Munich, which was liquidated by the Nazis. The Claimant further stated that his parents were both deported to a concentration camp in Poland, where they perished in November 1941.

The Claimant stated that he first suspected that his parents held an account at the Bank after finding an old invoice bearing his parents’ names among his father’s papers. The Claimant indicated that he was born on 26 December 1926 in Munich and that he is his parents’ only child.

The Claimant previously submitted three Initial Questionnaires (IQs) with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his father. In support of his claim, the Claimant submitted a letter, which he indicated was written on the Claimant's behalf, to Dr. A. Neuburger in Munich, Germany, dated 7 December 1948. In that letter, the Claimant

¹ The Claimant submitted a claim, numbered B-00663, on 3 February 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600053.

informed Dr. Neuburger that he had contacted the Bank about his parents' account and had been requested to produce documents proving that the Claimant is the heir of Martin and [REDACTED] Frank. The Claimant, accordingly, requested that Dr. Neuburger procure the necessary documents.

Procedure Before the HCPO

The Claimant and the HCPO submitted an excerpt from a list of Bank's customers and correspondence between the Bank's successor in interest and the HCPO, dated from March 1998 to April 1999. According to these documents, the Account Owner was Martin Frank. The account statement indicates that the Account Owner held a demand deposit account, which had a balance of 26.00 United States Dollars ("US\$") on 15 December 1963. In a letter to the HCPO, dated 29 April 1998, the Bank's successor stated that, on a date which the Bank's successor did not indicate, the account was closed after its had been absorbed by bank charges.

In subsequent correspondence between the HCPO and the Bank's successor, the Bank's successor agreed to pay the Claimant US\$ 1,750.00 for the account. According to a letter from the Bank's successor to the HCPO, dated 16 September 1998, this amount reflected hypothetical reimbursement for bank fees and 5% yearly interest between 1948 and 1998, the earlier date being the date on which the Claimant had first contacted the Bank regarding his father's account.

The HCPO and the Claimant also submitted an agreement between the Claimant and the Bank's successor, signed by the Claimant on 18 December 1998 and by the Bank's successor on 31 March 1999, in which the Bank's successor agreed to pay the Claimant the above mentioned sum, while the Claimant reserved his right to claim additional compensation for the account in the future if new information were discovered demonstrating that the settlement amount is materially less than the amount to which the Account Owner would be entitled. Further in the agreement, the Claimant and the Bank's successor agreed that the Claimant may claim additional compensation from the Bank's successor if a higher valuation of the account is determined by the International [sic] Committee of Eminent Persons or any other body.

Information Available in the Bank's Records

The CRT notes that the Bank's successor, despite its reference to the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") in its 1999 settlement with the Claimant, ultimately did not participate in the ICEP Investigation. The account statement discussed above was obtained from the Bank's successor by the HCPO on the Claimant's behalf and was forwarded to the CRT along with the correspondence between the Bank's successor and the HCPO.

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 Claimant in one proceeding.

Identification of the Account Owner

In this case, the Bank determined that the Claimant identified the Account Owner and provided the Claimant with account information based on that determination. The CRT notes that the Claimant identified the Bank and the specific branch where the Account Owner held the account. Further, the CRT notes that, because the Bank's successor was not part of the ICEP Investigation, the Account Owner's name would not have appeared on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), and that the Claimant filed an HCPO claim form in 1998 and three IQs in 1999, asserting his entitlement to a Swiss bank account owned by the Account Owner. This indicates that the Claimant based his claim on a direct family relationship that was known to him independently of the results of the ICEP Investigation, which supports the credibility of the information provided by the Claimant. Finally, the CRT notes that there are no other claims to this account.

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 his factory was forcibly closed down by the Nazis, and that the Account Owner and his wife were both deported to a concentration camp in Poland, where they perished in November 1941.

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, including a letter, dated in 1948, and correspondence between the HCPO and the Bank, demonstrating that the Account Owner was his father. The CRT further notes that the Claimant identified the Bank and the specific branch where the Account Owner held his account, and that the Bank acknowledged the relationship between the Account Owner and the Claimant. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank indicated that the account was absorbed by bank charges.

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 Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was his father, and that relationship justifies an award. Third, the CRT has determined 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 a demand deposit account. The Bank's records indicate that the value of the account on 15 December 1963 was US\$ 26.00, or 112.32 Swiss Francs ("SF").² According to Article 29 of the Rules, if the amount in a demand deposit account is 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 historic amount 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. In this case, the award amount is reduced by SF 2,572.50, which was the equivalent of US\$ 1,750.00, in order to reflect the Bank's previous payment to the Claimant for this account.³ Therefore, the total award amount is SF 24,177.50.

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
10 September 2004

² When converting amounts in foreign currencies into Swiss Francs, the CRT uses official exchange rates of the time.

³ The CRT used the average exchange rate for the third quarter of 1998 of SF 1.47 per US\$ 1.00.