

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Kurt Cerf and Erna Cerf

Claim Number: 401085/WI; 401087/WI

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the accounts of Richard Frank and Herman Frank.¹ This Award is to the unpublished accounts of Kurt Cerf (“Account Owner Kurt Cerf”) and Erna Cerf (“Account Owner Erna Cerf”) (together the “Account Owners”) at the Geneva branch of the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 Owners as his paternal grandparents, Erna Cerf, née Frank, who was born on 16 October 1896 and Kurt (Frank Kurt Adolf) Cerf, who was born on 31 January 1890. In subsequent correspondence with the CRT, the Claimant stated that his grandparents, who were Jewish, resided in Berlin, Germany, prior to the Second World War and that they often traveled to Switzerland, where they moved permanently in 1938. The Claimant explained that his grandfather was a farmer and industrialist; that his grandparents were financially well off and that they had substantial assets. The Claimant also stated that his grandparents deposited assets on behalf of other family members, and that his family owned numerous businesses and properties in Germany and in Switzerland. The Claimant did not indicate the fate of his relatives during the Second World War.

In support of his clam, the Claimant submitted documents, including copies of: (1) a certificate (*Bescheinigung*) issued by Swiss authorities, dated 12 May 1952, indicating that Frank Kurt Adolf Cerf, who was born on 31 January 1890, and Erna Cerf, née Frank, who was born on 16 October 1896, were married; that they had three children: [REDACTED], who was born on 20

¹ The CRT will treat the claims to these accounts in separate determinations.

August 1918, [REDACTED], who was born on 4 November 1919, and [REDACTED], who was born on 3 June 1926; that in 1930 they obtained a short-term permit to remain in Davos, Switzerland; that at the end of 1938 they were issued permanent Swiss residence permits; and that between 1938 and 21 April 1939 they resided in Davos and that they subsequently moved to Geneva, Switzerland; and (2) a letter addressed to his grandmother at 5, rue du Vieux Collège in Geneva from *Dresdner Bank* in Berlin, dated 15 January 1940, which states that the *Deutsche Golddiskontbank* had purchased the *Vorzugssperrmark* (specially blocked Reichsmark) that Erna Cerf had sought to sell. According to this letter, an amount of 100,000.00 Reichsmark belonging to her had been converted into United State Dollars (“US \$”) according to the special exchange rate applicable to *Vorzugssperrmarks*, producing an amount of US \$3,058.56, which was to be transferred to Erna Cerf’s account at the Bank.

The Claimant also submitted a copy of payment notification slip, dated 25 January 1940. According to this document, *Madame* (Mrs.) Erna Cerf, who resided at 5 Rue du Vieux Collège in Geneva, owned an account, the type of which is not indicated, at the Geneva branch of the Bank. The document indicates that a payment of US \$3,058.56 was made to the account from the *Allgemeine Waren-Finanzierungs-Gesellschaft m. b. h.* in Berlin.

The Claimant indicated that he was born on 3 March 1956 in Greenwich, Connecticut, the United States. The Claimant is representing [REDACTED 2], who is the daughter of Erna Cerf’s brother, [REDACTED].

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database and a list of suspended accounts. According to these records, the Account Owner was Kurt Cerf. The Bank’s records do not indicate the Account Owner’s domicile. The Bank’s records indicate that the Account Owner held an account, the type of which is not indicated. These records indicate that the account was transferred to a collective suspense account on 31 December 1941. The amount in the account on the date of its transfer was 7.95 Swiss Francs (“SF”). The account remains in the Bank’s suspense account.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of two power of attorney forms and indicate that the Account Owners were *Madame* (Mrs.) Erna Cerf and *Monsieur* (Mr.) Kurt Cerf. According to one power of attorney form, dated 2 September 1937, Kurt Cerf, who resided at address at rue du Candole 22 in Geneva, held an account, the type of which is not indicated. The document granted power of attorney over the account to his wife, Erna Cerf. The power of attorney form bears two stamps indicating that the power of attorney was annulled; one stamp is dated 3 September 1945, the other stamp is dated 10 September 1945.

According to the other power of attorney form, dated 9 September 1940, Erna Cerf, who resided at 5, rue du Collège in Geneva, held an account, the type of which is not indicated. The document granted power of attorney to her husband, Kurt Cerf, and specifies that he resided at

Hôtel Meublé at 5, rue du Collège in Geneva. The power of attorney form bears two stamps indicating that the power of attorney was annulled; one stamp is dated 20 December 1941, the other stamp is dated 22 December 1941.

The Bank's records do not show when these accounts were closed, nor do these records indicate the value of these accounts.

As noted above, the Claimant submitted a copy of payment notification slip, dated 25 January 1940. According to this document, *Madame* (Mrs.) Erna Cerf, who resided at 5 rue du Vieux Collège in Geneva, owned an account, the type of which is not indicated, at the Geneva branch of the Bank. The document indicates that a payment of US \$3,058.56 was made to the account from the *Allgemeine Waren-Finanzierungs-Gesellschaft m. b. h.* from Berlin. The CRT notes that the Bank's record, the payment notification slip, and the letter from *Dresdner Bank* in Berlin all identify the same address for Account Owner Erna Cerf, namely, 5, rue du (Vieux) Collège in Geneva. The CRT further notes that Account Owner Erna Cerf granted power of attorney over her account at the Bank to her husband on 9 September 1940, that is, only after she received the transfer of funds from Germany. The CRT therefore concludes that the account of unknown type held by Account Owner Erna Cerf, as evidenced by the Bank's power of attorney form, is the same account of unknown type as evidenced by the payment notification slip.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 Owners

The Claimant has plausibly identified the Account Owners. The Claimant's grandparent's name, city and country of residence match the unpublished name, city and country of residence of the Account Owners.

In support of his claim, the Claimant submitted documents, including a certificate issued by Swiss authorities, dated 12 May 1952; a letter to his grandmother from *Dresdner Bank*, dated 15 January 1940; and a copy of a payment notification slip, dated 25 January 1940, providing independent verification that the persons who are claimed to be the Account Owners had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owners.

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 Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they resided in Nazi-controlled Germany and that they fled to Switzerland in 1938.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific biographical information, demonstrating that the Account Owners were the Claimant's paternal grandparents.

The CRT notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of a certificate issued by Swiss authorities concerning the Account Owner's residence in Switzerland and a copy of a payment notification, which names Erna Cerf as the beneficiary of the payment. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and which provide independent verification that the Claimant's relatives bore the same family name as the Account Owners and that they resided in Geneva. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as he has asserted in his Claim Form.

There is no information to indicate that the Account Owners have surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

With regard to the account of unknown type belonging to Account Owner Kurt Cerf, the Bank's records indicate that the account was transferred to a collective suspense account on or before 31 December 1941, where it remains today.

With regard to the account of unknown type belonging to Account Owner Erna Cerf and documented by the letter from *Dresdner Bank*, the payment notification slip, and the Bank's power of attorney form, the CRT notes that the 15 January 1940 letter indicates that Erna Cerf held RM 100,000.00, which were purchased by the *Deutsche Golddiskontbank* at an exchange rate that yielded an amount of US \$3,058.56. This amount was then transferred from the *Dresdner Bank* in Berlin to Erna Cerf's account at the Bank in Geneva, as is evidenced by the payment notification slip, dated 25 January 1940. The CRT notes that Account Owner Erna Cerf resided in Geneva at the time this transfer was made.

The CRT notes that this transaction is typical of the measures used by Nazi authorities to confiscate Jewish-owned assets. In her contribution to the Symposium Proceedings on "Confiscation of Jewish Property in Europe, 1933 - 1945 New Sources and Perspectives," Susanne Meinel describes the various measures used by the Nazis to deprive Jews of their

property, including regulations regarding currency transfers and the imposition of alleged tax debts.² According to Meinel, in view of Nazi Germany's acute foreign exchange shortages, emigrants were permitted to transfer only small sums abroad. To transfer money legally, emigrants were required to deposit it into blocked accounts. Upon the transfer of the funds, the Nazis deducted a substantial sum, which ranged from 20 percent of the total sum in 1934 to 90 percent of the total sum in June 1938. "Toward the end of the period of legal emigration the cost of currency exchanges deteriorated to a point of vanishing returns. From September 1939 onward, those lucky enough to emigrate abroad could receive in exchange when they reached their new homes only four percent of the sums they had deposited in blocked accounts."³ In this case, the amount transferred to Erna Cerf's account to the Bank represents less than eight percent of the value of her German-held assets.⁴ Although the amount that Erna Cerf received in her Swiss account is only a small percentage of her German-held assets, there is no indication that she did not receive this amount as per the usual release of funds following her emigration. The CRT therefore concludes that Account Owner Erna Cerf received the proceeds of this account.

With regard to the account of unknown type belonging to Account Owner Kurt Cerf, the CRT notes that the power of attorney that was granted in 1937 was annulled in September 1945, after the cessation of hostilities in World War Two. The CRT considers the annulment of the power of attorney as an activity initiated by Account Owner Kurt Cerf, and therefore concludes that he accessed and managed the account after the War and received the proceeds himself.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his paternal grandparents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor their heirs received the proceeds of the claimed accounts.

The CRT further notes that Claimant, as the Account Owners' grandchild, has a better entitlement to the accounts than represented party [REDACTED 2], Account Owner Erna Cerf's niece.

² Susanne Meinel, "The Expropriation of Jewish Emigrants from Hessen," in the Symposium Proceedings, "Confiscation of Jewish Property in Europe, 1933 - 1945 New Sources and Perspectives," Washington, D.C.: Center for Advanced Holocaust Studies at the United States Holocaust Memorial Museum, 2003 (hereinafter "Meinel"), p. 96. Susanne Meinel is a historian at the Fritz Bauer Institute, Frankfurt am Main. Dr. Meinel is the author of *Nationalsozialisten gegen Hitler* (2000), as well as several scholarly articles on anti-Semitism and right-wing political organizations in Weimar Germany. She is studying the plunder and expropriation of Jewish assets in the German state of Hessen and in 2002 she worked on the exhibition "Legalized Burglaries: The Fiscal Exploitation of Jews in the State of Hesse, 1933 - 1945."

³ Meinel, p. 96.

⁴ According to official exchange rates, RM 100,000.00 was equal to SF 176,300.00 and US \$3,058.56 was equal to SF 13,488.25, or 7.65 percent of SF 176,300.00.

Amount of the Award

In this case, the Award is for one account of unknown type held by Account Owner Kurt Cerf. 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 Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of an account of unknown type was SF 3,950.00. 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 an award amount of SF 49,375.00.

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 Claimant, who is a descendant of Account Owner Kurt Cerf, is representing [REDACTED 2], who, as Account Owner Erna Cerf’s niece, is a descendant of the parents of Account Owner Kurt Cerf’s wife. Accordingly, the Claimant is entitled to the entire Award amount. As noted above, represented party [REDACTED 2] is not entitled to share in the Award.

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 claims 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
20 December 2007