

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Evelyne Marie [REDACTED]

in re Accounts of Marie Frank and Bertha Frank

Claim Numbers: 600643/IG¹

Award Amount: 135,887.50 Swiss Francs

This Certified Award is based upon the claim of Evelyne Marie [REDACTED], née Frank, (the “Claimant”) to the account of [REDACTED].² This Award is to the accounts of Marie Frank (“Account Owner Marie Frank”) and Bertha Frank (“Account Owner Bertha Frank”) (together the “Account Owners”) at the Basel branch of the [REDACTED I] (“Bank I”) and at the Basel branch of the [REDACTED II] (“Bank II”).

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”) identifying the Account Owners as herself (born on 6 May 1929 in Berlin) and her mother, Daisy Bertha Georgine Frank, née [REDACTED], (born on 6 August 1906 in Hamburg, Germany, and married to [REDACTED] on 8 May 1925). The Claimant stated that her father, [REDACTED], was born on 14 April 1891 in Laudau, Germany. The Claimant stated that her parents, who were Jewish, fled from the Nazis during the 1930s, first in 1934 to Paris, France, then in 1936 to San Remo, Italy, later in 1938 to Antwerp, Belgium, and finally in 1940 to Amsterdam, the Netherlands. The Claimant also stated that her father was arrested in Italy, and that, after he was released, her parents entered Switzerland in 1937, where they stayed for only three months, because the Swiss authorities did not allow them to stay any longer. The Claimant further stated that her parents sent her to her aunt in Berlin, Germany, and that she met her parents again in Belgium in 1938. The Claimant stated that her family was deported to Westerbork concentration

¹ The Claimant submitted a claim, numbered B-01036, on 12 June 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 600643.

² The CRT will treat the claim to this account in a separate decision.

camp, and that her father was then deported to Auschwitz, where he was murdered in 1943, but that the Claimant and her mother survived the Second World War. The Claimant also stated that her mother often spoke of an account opened in Switzerland. The Claimant stated that her mother died on 1 December 1976 in New York, New York, the United States. In support of her claim, the Claimant submitted her birth certificate.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an HCPO claim form in 1998, asserting her entitlement to a Swiss bank account owned by her father, [REDACTED]. The Claimant provided information about herself and her mother in the Initial Questionnaire.

Information Available in the Banks' Records

The Banks' records consist of an extract from a database of the 1945 Swiss Freeze of German Assets (the "Freeze") and a letter from Bank I to the Department of Liquidation of German Assets of the Swiss Compensation Office (*Schweizerische Verrechnungsstelle, Abteilung Liquidation deutscher Vermögenswerte*). According to these records, the Account Owners were *Frl.* (Miss) Marie Frank and Bertha Frank, who resided at 34 Alte Strasse in Schliengen, Baden, Germany. The Banks' records indicate that the Account Owners held an account of unknown type at Bank I, and an account of unknown type at Bank II. The account at Bank I was frozen on 18 August 1949, and the account at Bank II was frozen on 4 May 1949 pursuant to the Freeze. The amounts in the accounts on the dates on which they were frozen were 3,000.00 Swiss Francs and 7,721.00 Swiss Francs, respectively. According to the records, the accounts were released from the Freeze on 9 October 1953.

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") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Banks' records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her mother's name matches the published name of Account Owner Bertha Frank, and her own name matches the published name of Account Owner Marie Frank. The Claimant identified her family's connection to Germany, which matches published information about the Account Owners contained in the bank records. Despite the fact that the names of the joint Account Owners were published separately on the February 2001 list of accounts determined by ICEP to be probably or possibly those of victims of

Nazi persecution, the Claimant stated that the Account Owners were related, which matches unpublished information about the Account Owners contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 14 April 1891 and place of birth was Landau, Germany, which matches the information about Account Owner Marie Frank's father provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an HCPO claim form in 1998, asserting her entitlement to a Swiss bank account owned by her father, [REDACTED], 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 the Claimant 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 the Claimant had reason to believe that at least one of her parents owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims 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 had to flee Germany, and that they were interned at Westerbork concentration camp in the Netherlands. In addition, the Claimant stated that her father was killed in Auschwitz in 1943. As noted above, a person named [REDACTED] was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is Account Owner Marie Frank, and that Account Owner Bertha Frank is her mother. In support of her claim, the Claimant submitted her birth certificate.

The Issue of Who Received the Proceeds

Given that the Account Owners' family was forced to escape from Germany and was deported to Westerbork concentration camp; that one of the Account Owners' husband and the other's father, [REDACTED], was deported to Auschwitz, where he was murdered in 1943; that the accounts at Banks I and II survived the War, were frozen on 18 August 1949 and 4 May 1949, respectively, and not released from the freeze until 9 October 1953, and there is no record of the payment of the Account Owners' accounts to them in the Banks' records; that it is plausible that the Account Owners and their heirs would not have been able to obtain information about the 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; and the application of Presumptions (a), (h) and (j) contained in Article 28 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the Rules Governing the Claims Resolution Process, as amended (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 Account Owner Bertha Frank was her mother and that she is Account Owner Marie Frank, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two accounts of unknown type. The Banks' records indicate that the value of the account of unknown type at Bank I as of 18 August 1949 was 3,000.00 Swiss Francs, and the value of the account of unknown type at Bank II as of 4 May 1949 was 7,721.00 Swiss Francs.³ In accordance with Article 31(1) of the Rules, those amounts are increased by an adjustment of 75.00 Swiss Francs each, which reflects standardized bank fees charged to the accounts of unknown type between 1945 and 18 August 1949, and between 1945 and 4 May 1949, respectively. Consequently, the adjusted balances of the accounts at issue are 3,075.00 Swiss Francs and 7,796.00 Swiss Francs, respectively. Therefore, the adjusted historic balance of the two accounts was 10,871.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 135,887.50 Swiss Francs.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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).

³ There is not indication in the Bank's records that interest was paid on these accounts.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
August 7, 2003