

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Ernst Frankenstein

Claim Number: 500807/ES

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Ernst Frankenstein (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 her father, Dr. Ernst Frankenstein, who was born on 31 May 1881 in Dortmund, Germany, and was married to [REDACTED], née [REDACTED], on 25 December 1918 in Hamburg, Germany. The Claimant stated that her father, who was Jewish, was a well-known lawyer who resided in Berlin, Germany until 1933. The Claimant stated that when the Nazis came to power, her father fled to Paris, France, where he resided until 1936, when he moved to London, the United Kingdom. The Claimant stated that her father died on 28 September 1959 in London, that her mother died on 25 May 1961 in London, and that her only sister, [REDACTED], née [REDACTED], died on 15 July 1996 in London. The Claimant submitted her father’s vaccination certificate; her father’s certificate of qualification, stating that Ernst Frankenstein completed his legal studies in Berlin; and several obituaries from newspapers, indicating that Dr. Ernst Frankenstein had been a renowned lawyer in Berlin before moving to Paris; and the Claimant’s birth certificate, showing that she was born in Berlin and that her father was Dr. Ernst Frankenstein, a lawyer.

The Claimant indicated that she was born on 28 January 1929 in Berlin.

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. Ernst Frankenstein, who resided in Berlin, Germany and in Paris, France. The Bank's record indicates that the Account Owner held a demand deposit account.

The Bank's record indicates that the account was closed on 10 May 1934. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account 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 father's name, city, and country of residence match the published name, city, and country of residence of the Account Owner. The Claimant identified the Account Owner's title and his second city and country of residence, which match unpublished information about the Account Owner contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including her father's certificate of qualification, indicating that Ernst Frankenstein studied law in Berlin, Germany; several obituaries published in various newspapers, indicating that Dr. Ernst Frankenstein was a lawyer in Berlin before moving to Paris; and the Claimant's birth certificate indicating that she was born in Berlin, and that her father was Dr. Ernst Frankenstein, a lawyer. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and title and resided in the same cities recorded in the Bank's record as the name, title and cities of residence of the Account Owner.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city of residence than the city of residence of the Account Owner, and did not identify the Account Owner's title.

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 and was forced to flee Germany in 1933 to Paris.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth certificate indicating that she was born in Berlin, and that her father was Dr. Ernst Frankenstein, a lawyer.

The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the account was closed on 10 May 1934, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), 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 her father, 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 demand deposit account. 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 a demand deposit account was 2,140.00 Swiss Francs ("SF"). 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 26,750.00.

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 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).

Certification of the Award

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

Claims Resolution Tribunal
12 January 2005