

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1] and [REDACTED 2]

in re Accounts of Ernst Moser

Claim Numbers: 208753/AY;¹ 213135/AY;² 702111/AY

Award Amount: 125,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Ernst Moser and upon the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Ernst Moser and [REDACTED].³ This Award is to the accounts of Ernst Moser (the “Account Owner”) at the [REDACTED I] (“Bank I”), and at the [REDACTED II] (“Bank II”) (together the “Banks”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the banks have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are siblings, submitted a Claim Form and an Initial Questionnaire identifying the Account Owner as their father, Dr. Ernst Moser, who was born on 6 October 1877 in Vienna, Austria, and was married in 1920 to [REDACTED] in Vienna. The Claimants indicated that their father, who was Jewish, worked as a lawyer and resided at Goldenstiege 6 in Modling, Austria, until he was forced to flee due to the Nazi occupation of Austria to the United Kingdom, where he passed away on 4 December 1957. Claimant [REDACTED 2] indicated that she remembered that in the spring of 1938, when she was sixteen-years-old, a Swiss national

¹ Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 208753 and 200937. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 208753.

² Claimant [REDACTED 2] submitted an additional Claim Form to the account of [REDACTED], which is registered under the Claim Numbers 211762. The CRT will treat the claim to this account in a separate decision.

³ The CRT will treat the claim to the account of [REDACTED] in a separate decision.

visited their home in Austria and took money from her family to be deposited in Switzerland.

In support of his claim, Claimant [REDACTED 1] submitted his birth certificate, indicating that he is the son of Dr. Ernst Moser, a lawyer; and his father's identification card, indicating his address and date of birth. Claimant [REDACTED 1] also submitted a court decision authorizing the change of his last name. Claimant [REDACTED 2] added that her documents were destroyed during the bombings in London. Claimant [REDACTED 1] indicated that he was born on 2 June 1923 in Modling, and Claimant [REDACTED 2] indicated she was born on 8 August 1921 in Vienna.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire to the court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by his father, Ernst Moser. Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her mother [REDACTED], the spouse of the Account Owner, and herself.

Information Available in the Banks' Records

Bank I

The records of Bank I consist of an excerpt from Bank I's ledger and printouts from Bank I's database. According to these records, the Account Owner was Ernst Moser. Bank I's records do not contain additional information about the Account Owner. Bank I's records indicate that the Account Owner held a demand deposit account. The account was transferred to a suspense account for dormant assets on 17 May 1965. The amount in the account on the date of its transfer was 24.50 Swiss Francs. The account remains open in Bank I's suspense account.

Bank II

The records of Bank II consist of a list of accounts that were closed to Bank II's profit and loss account and a printout from Bank II's database. According to these records, the Account Owner was Ernst Moser. Bank II's records do not contain additional information about the Account Owner. Bank II's records indicate that the Account Owner held an account, of unknown type. The account was transferred to a suspense account for dormant assets on 30 June 1937. The amount in the account on the date of its transfer was 30.80 Swiss Francs. Bank II's records indicate that the account was closed by Bank II to its profit and loss account in 1942, at which time the amount in the account was 30.80 Swiss Francs.

Biel Branch of Bank II

The records of Bank II at its Biel branch consist of a list of accounts that were transferred to Bank II's suspense account and printouts from Bank II's database. According to these records, the Account Owner was Ernst Moser. Bank II's records do not contain additional information about the Account Owner. Bank II's records indicate that the Account Owner held an account, numbered 27703, of unknown type. According to Bank II's records, Bank II had contact with the Account Owner for the last time on 18 January 1936. The account was transferred to a suspense account for dormant assets on 28 February 1977. The amount in the account on the date of its transfer was 1.05 Swiss Francs. The account remains open in Bank II's suspense account.

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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their father's name matches the published name of the Account Owner. The CRT notes that the Banks' records do not contain any specific information about the Account Owner other than his name. In support of his claim, Claimant [REDACTED 1] submitted his birth certificate indicating that he is the son of Dr. Ernst Moser, who was a lawyer, and his father's identification card, indicating his address and date of birth. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ernst Moser from Molding, Austria, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT further notes that Claimant [REDACTED 1] filed an Initial Questionnaire with the Court in 1999 and an ATAG claim form in 1998, asserting his entitlement to a Swiss bank account owned by his father Ernst Moser, 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"). The CRT also notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her mother [REDACTED], the spouse of the Account Owner, and herself. This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the

Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants. Furthermore, the CRT notes that there are no other claims to these accounts. Taking all these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that their father, who was Jewish, fled Austria to the United Kingdom after the Nazi occupation. As noted above, a person named Ernst Moser was included in the Yad Vashem database of victims of Nazi persecution.

The Claimants' Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting family trees, biographical information, and Claimant [REDACTED 1] submitted his birth certificate, indicating that he is the son of Dr. Ernst Moser, which demonstrate that the Account Owner was their father. Claimant [REDACTED 1] also submitted a court decision, authorizing the change of his last name, and his father's identification card. In the Claimants' family trees, they both have indicated that they are siblings.

The Issue of Who Received the Proceeds

The Banks' records indicate that the accounts held at Bank I and at the Biel branch of Bank II remain open in Bank I's and Bank II's suspense accounts, and that the account held at Bank II was closed to Bank II's profit and loss account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their father, and those relationships justifies an Award. Finally, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and two accounts of unknown type. The records of Bank I indicate that the value of the demand deposit account as of 17 May 1965 was 24.50 Swiss Francs. The records of Bank II indicate that the value of the account of unknown type was 30.80 Swiss Francs as of 30 June 1937. The records of Bank II at the Biel branch indicate that the value of account of unknown

type, numbered 27703, as of 28 February 1977 was 1.05 Swiss Francs. Regarding the demand deposit account at Bank I, according to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. Regarding the account of unknown type at Bank II, closed on 30 June 1937, according to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs.⁴ Regarding the account of unknown type at Bank II at the Biel branch, according to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the balances 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 125,500.00 Swiss Francs.

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 Claimants are the son and daughter of the Account Owner. Accordingly, each Claimant is entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
31 December 2003

⁴ The award based on average value in this case takes into account the fact that the confiscations took place in 1937 and the current value adjustment is calculated from 1945.