

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to the Estate of Claimant [REDACTED 2],¹
represented by Hoerner Bank AG

and to Claimant [REDACTED 3]
represented by Erez Bernstein

in re Accounts of Helene Bondi, Samuel Bondi, and Joseph Hirsch

Claim Numbers: 221204/HS; 221205/HS; 221369/HS; 501812/HS²

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) to the published accounts of Gabriele Bondi, Helene Bondi, née Hirsch (“Account Owner Helene Bondi”), and Samuel Bondi (“Account Owner Samuel Bondi”); and upon the claim of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”), (together the “Claimants”) to the published accounts of Joseph Hirsch (“Account Owner Hirsch”) (together the “Account Owners”). This Award is to the joint accounts of Account Owner Helene Bondi, Account Owner Samuel Bondi, and Account Owner Hirsch, over which Arthur Bondi (“Power of Attorney Holder Arthur Bondi”), Gabriele Bondi (“Power of Attorney Holder Gabriele Bondi”), Hermann Bondi (“Power of Attorney Holder Hermann Bondi”), and Joseph Bondi (“Power of Attorney Holder Joseph Bondi”) (together the “Power of Attorney Holders”) held power of attorney, at the Basel branch of [REDACTED] (the “Bank”); and to the account of Account Owner Samuel Bondi at the London branch of the Bank.³

¹ The CRT notes that [REDACTED 2] (“Claimant [REDACTED 2]”) passed away on 10 September 2005.

² In a separate decision, the account of Joseph Bondi was awarded to Claimant [REDACTED 2], [REDACTED 1] (“Claimant [REDACTED 1]”), and [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together the “Claimants”). See *In re Account of Joseph Bondi* (approved on 18 December 2008).

³ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Gabriele Bondi is listed with two accounts; Helene Bondi, née Hirsch, is listed twice (once under her married name and once under her maiden name), each time with two accounts; Samuel Bondi is listed with two accounts; Joseph Hirsch is listed with two accounts; and Arthur Bondi, Hermann Bondi, and Joseph Bondi are listed as power of attorney holders under all these entries. However, upon careful review, the CRT has concluded that the Bank’s records evidence the existence of three accounts: two accounts held jointly by Helene Bondi, Samuel Bondi, and

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

Information Provided by the Claimants

Claimant [REDACTED 1] and Claimant [REDACTED 2], who is Claimant [REDACTED 1]'s maternal uncle, submitted substantially similar Claim Forms identifying Account Owner Samuel Bondi and Account Owner Helene Bondi as Claimant [REDACTED 2]'s parents and Claimant [REDACTED 1]'s maternal grandparents, Dr. Samuel Bondi and Helene Bondi, née Hirsch; and identifying Power of Attorney Holder Gabriele Bondi as Claimant [REDACTED 2]'s sister and Claimant [REDACTED 1]'s mother, Gabriele Lobel, née Bondi. Claimant [REDACTED 3] submitted a Claim Form identifying Account Owner Joseph Hirsch as her maternal grandfather, Joseph Hirsch, who was the brother of Helene Bondi. Additionally, according to the information submitted by Claimant [REDACTED 3] and further research conducted by the CRT,⁴ Joseph Bondi was Samuel Bondi's brother, and Arthur Bondi was Joseph Bondi's son.

Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that Samuel Bondi, who was born on 29 June 1878 in Mainz, Germany, was married to Helene Bondi, who born on 15 March 1892 in Halberstadt, Germany, to [REDACTED] and [REDACTED]. According to Claimant [REDACTED 1] and Claimant [REDACTED 2], Samuel Bondi was a medical doctor. Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that Samuel and Helene Bondi, who were Jewish, resided at Langedasse 67, Vienna, Austria, and that they had two children, [REDACTED] and Claimant [REDACTED 2]. Claimant [REDACTED 1] explained that [REDACTED] studied medicine in Vienna until she fled in 1938, and that she continued her studies in Basel, Switzerland, receiving her medical degree in 1939.

In a telephone conversation with the CRT, Claimant [REDACTED 2] explained that his parents fled Austria a few hours before the annexation of Austria into the German Reich in March 1938 (the "*Anschluss*"), and that they joined their children who were already in the United Kingdom. Claimant [REDACTED 2] stated that his parents owned several accounts with the Bank, that he and his sister had the right to draw on certain of his parents' accounts, except for one particular account, which no one had touched since approximately 1949. The Claimants further stated that Samuel Bondi, Helene Bondi, and [REDACTED] eventually emigrated to New York, where Samuel Bondi died on 21 January 1959, Helene Bondi died on 3 August 1960, and [REDACTED], died on 25 February 1992.

Claimant [REDACTED 3] stated that Joseph Hirsch, who was born in 1898 in Halberstadt, was the son of [REDACTED] and his second wife, [REDACTED]. Claimant [REDACTED 3] stated that Joseph Hirsch, who was Jewish, was married to [REDACTED], and that they had one child, [REDACTED] (Claimant [REDACTED 3]'s mother). Claimant [REDACTED 3] stated that

Joseph Hirsch, over which Gabriele Bondi, Arthur Bondi, Hermann Bondi, and Joseph Bondi held power of attorney; and one account held solely by Samuel Bondi.

⁴ The CRT located the Bondi family tree, which lists basic biographical details, at www.loebtree.com/bondimm.html.

Joseph Hirsch resided in Halberstadt and Berlin, Germany, and that he worked at the family business *Hirsch Kopfer*. Claimant [REDACTED 3] stated that Joseph Hirsch left Germany in the mid-1930s after Hitler came to power and that he emigrated to Haifa, Palestine (now Israel), where he passed away on 4 December 1961.

In support of their claims, Claimant [REDACTED 2] and Claimant [REDACTED 1] submitted documents, including: (1) [REDACTED]'s birth certificate, identifying her parents as Dr. Samuel Bondi and Helene Bondi, née Hirsch, and indicating that she was born on 29 March 1915 in Vienna; (2) Claimant [REDACTED 2]'s birth certificate, identifying his parents as Dr. Samuel Bondi and Helene Bondi, née Hirsch, and indicating that he was born on 1 November 1919 in Vienna; (3) the marriage certificate of [REDACTED], née [REDACTED], dated 13 May 1951 in New York, indicating that Samuel Bondi was a witness to her marriage; (4) Claimant [REDACTED 1]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED], who was born in Austria, and indicating that he was born on 8 January 1956 in New York; (5) Samuel Bondi's death certificate, indicating that he was born on 29 June 1878 in Germany, that he was a medical doctor, that he was married to Helene Bondi, that he had lived in New York since 1940, and that he died on 21 January 1959 in New York; and (6) Helen Bondi's death certificate, indicating that she was born in Germany, that she was widowed, that she had lived in New York since 1940, and that she died on 3 August 1960.

In support of her claim, Claimant [REDACTED 3] submitted documents, including: (1) her mother's birth certificate, which indicates that [REDACTED] was born in Germany in 1930 to [REDACTED] and [REDACTED]; (2) her own birth certificate, which indicates that [REDACTED 3] was born on 8 October 1960 in Haifa, and that her mother was [REDACTED], née [REDACTED]; (3) Joseph Hirsch's burial certificate, indicating that he was born in Germany, that his father was [REDACTED], that he died on 4 December 1961, and that he was to be buried in Haifa; and (4) Claimant [REDACTED 3]'s own marriage certificate dated 1987 in Kiryat Bialik, Israel, indicating that her mother is [REDACTED].

Claimant [REDACTED 2] indicated that he was born on 1 November 1919 in Vienna, Claimant [REDACTED 1] indicated that he was born on 8 January 1956 in New York, and Claimant [REDACTED 3] indicated that she was born on 8 October 1960 in Haifa. Claimant [REDACTED 2]'s legal representative informed the CRT that Claimant [REDACTED 2] died on 10 September 2005 in Cambridge, the United Kingdom.

Information Available in the Bank's Records

The Bank's records consist of an account opening contract, power of attorney forms, and correspondence. Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about the Account Owners' accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents, including account cards, account statements, and lists of account owners.

According to the Bank's records, Account Owner Samuel Bondi and Account Owner Helene Bondi were *Privatdozent* (private lecturer) Dr. Samuel Bondi and *Frau* (Mrs.) Helene Bondi, née Hirsch, who resided at Langegasse 67 in Vienna VIII, Austria, and, as of 10 April 1938 or earlier, at *Hotel Vanderbilt* in London, the United Kingdom. The Bank's records also indicate that Account Owner Samuel Bondi resided in New York, the United States, as of January 1942 or earlier. The Bank's records indicate that Account Owner Hirsch was Joseph Hirsch who resided at *House Birnhack* in Mount Carmel, Haifa, Palestine (now Israel), as of 10 April 1938 or earlier.

The Bank's records additionally indicate that Power of Attorney Holder Gabriele Bondi was Dr. Gabriele Bondi, who resided in Vienna and, as of 22 October 1938 or earlier, in London; and that Power of Attorney Holder Hermann Bondi was Hermann Bondi (*i.e.*, Claimant [REDACTED 2]), who resided in Cambridge, the United Kingdom, as of 28 September 1937 or earlier. The Bank's records indicate that Power of Attorney Holders Joseph and Arthur Bondi, whose residence is not specified, were Dr. Joseph Bondi and Dr. Arthur Bondi.

The Joint Accounts of Account Owners Helene Bondi, Samuel Bondi, and Joseph Hirsch

The Bank's records indicate that Account Owner Helene Bondi and Account Owner Samuel Bondi opened a joint custody account and a joint demand deposit account, both numbered 36304, on 4 November 1930 at the Bank's Basel branch, at which time they resided in Vienna. The Bank's records contain a handwritten letter, dated 22 March 1935 in Basel, to the Bank from Account Owner Samuel Bondi, granting power of attorney over custody and demand deposit accounts 36304 to Dr. Joseph Bondi and Dr. Arthur Bondi. A notation by the Bank bearing the same date indicates that the Bank provisionally regarded this power of attorney as valid only for one-time use ("*vorläufig nur als einmal gültig zu betrachten*"). The Bank's records also indicate that Account Owner Hirsch became a joint owner of the custody and demand deposit accounts numbered 36304 as of 10 April 1938 or earlier, and that Power of Attorney Holder Hermann Bondi was granted power of attorney over these accounts on 10 April 1938.

According to a letter from the Bank's Basel branch to its Lausanne branch dated 28 September 1937, the Basel branch opened special custody account dossier, numbered 36304, at the Lausanne branch, which was held in the name of the Basel branch, rather than in the name of an individual account owner. In this letter, the Basel branch informed the Lausanne branch that the actual owner of the custody account was Account Owner Samuel Bondi, but that, as was usual with such deposits, Account Owner Samuel Bondi did not normally have the right to access the custody account directly in Lausanne. However, according to this letter, the Basel branch had informed Account Owner Samuel Bondi that, in case of serious events, such as war or interruption of communications with the Basel branch, he would be entitled to access the custody account directly in Lausanne. Likewise, in case of such serious events, Power of Attorney Holder Hermann Bondi, who resided in Cambridge, the United Kingdom, would be authorized to withdraw 5,000.00 Swiss Francs ("SF") per year directly from dossier 36304 at the Lausanne branch. The Basel branch also indicated that it supplied the Lausanne branch with signature samples for both Account Owner Samuel Bondi and Power of Attorney Holder Hermann Bondi.

The Bank's records indicate that on 10 December 1938, Account Owner Samuel Bondi, who was in London at the time, granted power of attorney to Power of Attorney Holder Gabriele Bondi, who was also in London, over all assets held in his name at the Basel branch of the Bank.

There is no evidence in the Bank's records that the Account Owners, the Power of Attorney Holders, or their heirs closed the accounts numbered 36304 and received the proceeds themselves.

Account Owner Samuel Bondi's Account

The Bank's records indicate that Account Owner Samuel Bondi held an account, the type of which is not indicated, numbered 7046, at the London branch of the Bank. These records, which consist of partially illegible account statements dated as early as 20 May 1938, indicate that Account Owner Samuel Bondi resided in London. The Bank's records indicate that the account was blocked on 25 January 1942 under the United Kingdom's Trading with the Enemy Act of 1939, and bear the following notation: the "credit bal[ance] must not be dealt with except by permission of the Bank of England." The Bank's records further indicate that the Bank was informed on 20 August 1942 that Account Owner Samuel Bondi resided in New York. The Bank's records indicate that the account balance was 298.35 Pound Sterling ("£")⁵ on 31 December 1942. The Bank's records show semi-annual Bank fee deductions of £0.53 from the account. These records also show a deposit to the account of £2.18 received from *Barclays Bank Ltd.*, London, on 16 February 1944; payment of £100.00 to *Midland Bank Ltd.* on 17 July 1946; and payment of £75.94 in "*Westminster Bank* Travelers Cheques in favour of Hermann Bondi" on 2 August 1946. The final record for this account is an account statement, indicating that the account was still blocked, but also showing payment to *Midland Bank Ltd.*, Cambridge branch, of £52.64 on 4 February 1947, and a standard banking fee of £1.05 on 5 February 1947, after which the account balance was zero.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Samuel Bondi, numbered 27469. These records indicate that Dr. Samuel Bondi, who was born on 29 June 1878, was married to Helene Bondi, née Hirsch, and that both of them were Jewish. According to these records, Samuel Bondi, who held the title of *Dozent* ("lecturer"), practiced internal medicine at *Langegasse 67*, Vienna, where he resided. These records indicate that Samuel Bondi owned three insurance policies valued at 29,451.00 Reichsmark ("RM"), Austrian securities valued at RM 666.66, various medical instruments valued at RM 788.60, as well as household goods, including jewelry and furniture, with a total estimated value of RM 1,660.40.

⁵ Before the decimalization of the British pound in 1971, values in Pound Sterling ("£") were expressed in terms of pounds, shillings, and pence. The shilling is equivalent to £ 1/20th and one penny is equivalent to £ 1/240. The CRT has converted amounts in Pound Sterling to decimal values.

These records contain correspondence between the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt.”) and the Foreign Exchange Control Office (*Devisenstelle*), which indicates that Samuel Bondi emigrated to a foreign country sometime before 3 May 1939.

These records make no mention of assets held in a Swiss bank account.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners and the Power of Attorney Holders. The Claimants’ relatives’ names, cities and countries of residence match the published names, cities and countries of residence of the Account Owners. The Claimants further identified the names of the Power of Attorney Holders. In addition, the Claimants identified Account Owner Helene Bondi and Account Owner Samuel Bondi’s street address in Vienna, Account Owner Samuel Bondi’s professional title, and the cities and countries to which the Account Owners fled, all of which matches unpublished information about the Account Owners and the Power of Attorney Holders contained in the Bank’s records.

In support of their claims, Claimant [REDACTED 2] and Claimant [REDACTED 1] submitted documents, including the birth certificates of [REDACTED] and Claimant [REDACTED 2], identifying her parents as Dr. Samuel Bondi and Helene Bondi, née Hirsch, of Vienna; the marriage certificate of [REDACTED], née [REDACTED], indicating that Samuel Bondi was a witness to her marriage; Claimant [REDACTED 1]’s birth certificate, showing that his mother’s name was [REDACTED], née [REDACTED], who was born in Austria; and the death certificates of Samuel and Helene Bondi, identifying them as a married couple and indicating that Samuel Bondi was a medical doctor. In support of her claim, Claimant [REDACTED 3] submitted [REDACTED]’s birth certificate, showing that the latter’s father was Joseph Hirsch; and Joseph Hirsch’s burial certificate, indicating that he was to be buried in Haifa.

These documents provide independent verification that the people who are claimed to be the Account Owners and Power of Attorney Holder Gabriele Bondi and Power of Attorney Holder Hermann Bondi had the same names and cities and countries of residence, and in the case of Account Owner Samuel Bondi, the same professional title, as the Account Owners and Power of Attorney Holder Gabriele Bondi and Power of Attorney Holder Hermann Bondi in the Bank’s records.

The CRT notes that the other claims to these accounts were disconfirmed because the claimants provided different cities of residence than the cities of residence of the Account Owners and/or different maiden names than the maiden name of Account Owner Helene Bondi.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have plausibly demonstrated that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, that Account Owner Joseph Hirsch fled Germany after Hitler's rise to power, that Account Owner Helene Bondi and Account Owner Samuel Bondi fled Austria hours prior to the *Anschluss*, and that Power of Attorney Holder Gabriele Bondi fled Austria in 1938. Furthermore, the CRT notes that Account Owner Samuel Bondi was required to register his assets pursuant to the 1938 Census.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Helene Bondi and Account Owner Samuel Bondi were Claimant [REDACTED 2]'s parents and Claimant [REDACTED 1]'s maternal grandparents and that Account Owner Joseph Hirsch was Claimant [REDACTED 3]'s maternal grandfather. These documents include the birth certificates of [REDACTED] and Claimant [REDACTED 2], identifying their parents as Dr. Samuel Bondi and Helene Bondi; Claimant [REDACTED 1]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED]; the birth certificates of [REDACTED] and Claimant [REDACTED 3] and Claimant [REDACTED 3]'s marriage certificate, showing that Claimant [REDACTED 3]'s mother was [REDACTED], née [REDACTED], who was the daughter of Joseph Hirsch.

The Issue of Who Received the Proceeds

The Joint Accounts of Account Owners Helene Bondi, Samuel Bondi, and Joseph Hirsch

The CRT notes that the Bank's records indicate that the Account Owners' joint accounts remained open after Account Owner Helene Bondi, Account Owner Samuel Bondi, Account Owner Hirsch, Power of Attorney Holder Gabriele Bondi, and Claimant [REDACTED 2] (*i.e.*, Power of Attorney Holder Hermann Bondi) reached safety. However, given that there is no record of the payment of the Account Owners' joint accounts to them, nor any record of a date of closure of these accounts; that the Account Owners fled their countries of origin due to Nazi persecution, that the Account Owners may have had relatives remaining in their countries of origin and that they may therefore have yielded to Nazi pressure to turn over their accounts to ensure their safety, that the Account Owners and their heirs would not have been able to obtain information about their 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 Owners, the Power of Attorney Holders, or their 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.

Account Owner Samuel Bondi's Account

Account Owner Samuel Bondi's account at the Bank's London Branch was blocked on 25 January 1942 under the Trading with the Enemy Act of 1939. However, the Bank's records also show that Account Owner Samuel Bondi maintained contact with the Bank after he moved to New York. Furthermore, the Bank's records show several withdrawals from the account, the last of which, on 2 August 1946 and 4 February 1947, consisted of a payment to Claimant [REDACTED 2], a payment to the *Midland Bank* in Cambridge, where Claimant [REDACTED 2] resided, and a standard banking fee, which reduced the account balance to zero.

The CRT determines that these withdrawals were made by Account Owner Samuel Bondi and/or Claimant [REDACTED 2]. Accordingly, given this evidence that Account Owner Samuel Bondi and/or Claimant [REDACTED 2] accessed the account after the Second World War and withdrew all the assets it contained, the CRT determines that Account Owner Samuel Bondi and/or Claimant [REDACTED 2] received the proceeds of this 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 Account Owner Helene Bondi and Account Owner Samuel Bondi were Claimant [REDACTED 2]'s parents and Claimant [REDACTED 1]'s maternal grandparents, and that Account Owner Hirsch was Claimant [REDACTED 3]'s maternal grandfather, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor the Power of Attorney Holders, nor their heirs received the proceeds of the Account Owners' joint accounts at the Basel branch of the Bank.

Amount of the Award

For the purpose of this Award, the Account Owners held a custody account and a 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 custody account was SF 13,000.00 and the average value of a demand deposit account was SF 2,140.00.⁶ Thus, the combined 1945 average

⁶ The CRT notes that, in an Order dated 16 June 2010, the Court amended Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), which establishes value presumptions for accounts with unknown or low values. Full information regarding the methodology and procedure used to determine the revised Article 29 presumptive values is available at www.swissbankclaims.com. The CRT notes that any adjustment for

value for the two accounts at issue is SF 15,140.00. 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 a total award amount of SF 189,250.00.

Division of the Award

Under Article 25 of the Rules, if an account is a joint account and claimants related to each of the account owners have submitted claims to the account, it shall be presumed that each account owner was the owner of an equal share of the account. Accordingly, the CRT shall presume that the Account Owners each held equal shares of the two joint accounts, equal to one-third of each account for each Account Owner. 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, Claimant [REDACTED 2] is one of the two children of Account Owner Helene Bondi and Account Owner Samuel Bondi and Claimant [REDACTED 1] is the child of their other child ([REDACTED]); and Claimant [REDACTED 3] is the grandchild of Account Owner Hirsch. Accordingly, each of the Claimants is entitled to one-third of the total award amount.

Certification of the Award

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

Claims Resolution Tribunal
24 March 2011

accounts awarded at the previous Article 29 values, such as the accounts described herein, will be addressed to the Claimants separately.