

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant Dr. Tsvi Sadeh¹
also acting on behalf of Menachem Sadeh and Chava Levin, née Hirschfeld

in re Accounts of Estate of Ludwig Cahn

Claim Number: 216575/WT

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Dr. Tsvi Sadeh (the “Claimant”) to the account of Ludwig Simon Leopold Hirschfeld.² This Award is to the published account of the Estate of Ludwig Cahn (the “Account Owner”), over which Georg Ullmann (“Power of Attorney Holder Ullmann”) held power of attorney and to which Martha Cahn, née Rosenheim (“Beneficiary Martha Cahn”), Richard Cahn (“Beneficiary Richard Cahn”), Hedwig Hirschfeld, née Cahn (“Beneficiary Hedwig Hirschfeld”), Gustav Kahn (“Beneficiary Gustav Kahn”), Alfred Kahn (“Beneficiary Alfred Kahn”) and Hugo Hirschfeld (“Beneficiary Hugo Hirschfeld”) (together the “Beneficiaries”) were beneficiaries, at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Beneficiary Hugo Hirschfeld as his paternal uncle, Hugo Hirschfeld, who was born on 29 October 1876 in Offenbach, Germany, and identifying Beneficiary Hedwig Hirschfeld as his paternal uncle’s wife, Hedwig Hirschfeld, née Cahn, who was born on 5 January 1891 in Offenbach. The Claimant indicated that his uncle and aunt, who were Jewish, were married and lived in Offenbach. The Claimant submitted a copy of an official letter from the City Archive Offenbach am Main (*StadtArchiv Offenbach am Main*) addressed to the Claimant and dated 19 May 1998, indicating that Hugo Hirschfeld was born on 29 October 1876 and that Hedwig Hirschfeld, née Cahn, was born on 5 January 1891. The document further indicates that Hugo Hirschfeld was deported to Theresienstadt, where he

¹ The CRT was informed that Dr. Tsvi Sadeh died on 10 June 2002.

² The CRT did not locate an account belonging to Ludwig Hirschfeld in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

perished on 15 March 1944, and that Hedwig Hirschfeld was deported to Auschwitz and was not heard from again. According to a Page of Testimony submitted to the Yad Vashem Memorial in Israel in 1999 by the Claimant regarding his uncle, Hugo Hirschfeld, the Claimant's uncle was a merchant.

The Claimant indicated that he was born Heinrich Ernest Hirschfeld on 1 July 1921 in Offenbach. The Claimant is representing his brother, Menachem Sadeh, who was born Franz Julius Hirschfeld on 27 July 1922 in Offenbach and his sister, Chava Levin, née Eva Charlotte Hirschfeld, who was also born on 27 July 1922 in Offenbach.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Ludwig Hirschfeld.

Information Available in the Bank's Records

The Bank's records consist of a customer card and a list documenting the transfer of securities from custody accounts to German banks during the period 1 November 1936 until 31 January 1937. According to these records, the Account Owner was Ludwig Cahn, who resided at Ludwigstrasse 28, Offenbach, Germany. The customer card indicates that the Account Owner held one custody account, numbered 23250, which was opened in 1926, and that in 1928 power of attorney was granted to Georg Ullmann of Munich, Germany. A handwritten notation on the customer card dated 12 June 1935 indicates that the Account Owner was deceased, and a notation dated 9 July 1935 indicates that the Power of Attorney Holder was also deceased. The securities transfer list indicates that the securities held in the custody account, numbered 23250 and held by the estate (*Nachlass*) of Ludwig Cahn, were transferred on 28 December 1936 to the *Commerz & Privat-Bank AG* in Frankfurt am Main, Germany, pursuant to German foreign currency restriction measures that required German owners of foreign securities to deposit their securities at a German bank entitled to deal with foreign currency (*Devisenbank*) or into such a bank's account at a foreign institution. The records indicate that the value of these securities was 5,600.00 Swiss Francs ("SF") on the date of the transfer.

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 these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of a form for the opening of a custody account and a demand deposit account, a power of attorney form, and correspondence relating to these accounts. These records indicate that on 4 February 1929 Account Owner Ludwig Cahn, who resided at Ludwigstrasse 28, Offenbach am Main, Germany, opened a custody account and a demand deposit account, both numbered 23250. A power of attorney form executed on 27 January 1928 indicates that the Account Owner granted power of attorney to Georg Ullmann, who resided in Munich, Germany. The hand-written notation "23250" appears at the top of this form, which the CRT concludes is an indication that this power of attorney extended to the accounts opened in 1929.

These records include correspondence between the Bank and Ernst Schloss, the executor of the estate of Ludwig Cahn. This correspondence includes a copy of the last will and testament of Ludwig Cahn and Martha Cahn, née Rosenheim, dated 8 April 1933. The will indicates that the surviving spouse was to receive a life-estate, the remainder of which would then pass to their children: Richard Leopold Cahn, Hedwig Clara Hirschfeld, née Cahn, Gustav Benedikt Cahn, and Alfred Hellmuth Cahn. The will makes further provision for their son-in-law Hugo Hirschfeld, who was the husband of Hedwig Hirschfeld.

The Bank indicated in its correspondence with Mr. Schloss that the custody account contained the following securities as of 28 February 1936:

- 6% *Rentenbons Compania Hispano-Americana de Electricidad 1920* bonds with a nominal value of 1,350.00 Swiss Francs (“SF”)
- 7% *Deutsche äussere Anleihe 1924 Schweizertranche* bonds with a nominal value of 200.00 Pound Sterling
- 6% *äussere Goldanleihe Rep. Chile 1929* bonds with a nominal value of SF 3,000.00
- 6% *äussere Goldanleihe Rep. Chile 1930* bonds with a nominal value of SF 2,000.00
- 1 share of *Compania Hispano-Americana de Electricidad* Series A to C
- 1 share of *Compania Hispano-Americana de Electricidad* Series E

According to the Bank’s records, the securities contained in the custody account, with a total market value of SF 5,600.00, were transferred on 28 December 1936 to the *Commerz & Privat-Bank AG* in Frankfurt am Main, Germany. The Bank’s records do not indicate whether the Account Owner’s beneficiaries were notified of this transaction.

The Bank’s records do not show when the demand deposit account was closed, nor do these records indicate the value of this account. 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 this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank’s records that the Account Owner’s beneficiaries closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified Beneficiary Hugo Hirschfeld and Beneficiary Hedwig Hirschfeld, née Cahn. The Claimant’s uncle’s and aunt’s names and city and country of residence match the unpublished name and city and country of residence of Beneficiary Hugo Hirschfeld and Beneficiary Hedwig Hirschfeld, née Cahn. The Claimant identified the spousal relationship between Beneficiary Hugo Hirschfeld and Beneficiary Hedwig Hirschfeld, née Cahn, which matches unpublished information contained in the Bank’s records. In support of his claim, the Claimant submitted documents, including a copy of an official letter from the City

Archive Offenbach indicating that Hugo Hirschfeld was born on 29 October 1876 in Offenbach and that Hedwig Hirschfeld, née Cahn, was born on 5 January 1891, providing independent verification that the persons who are claimed to be the beneficiaries of the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of Beneficiary Hugo Hirschfeld and Beneficiary Hedwig Hirschfeld.

Additionally, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Hugo Hirschfeld, and indicates that his date of birth was 29 October 1876 and residence was Offenbach, which matches the information about Beneficiary Hugo Hirschfeld provided by the Claimant. This database also includes a person named Hedwig Hirschfeld, née Kahn, and indicates that her date of birth was 5 January 1891 and place of birth was Offenbach, which matches the information about Beneficiary Hedwig Hirschfeld provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Additionally, the CRT notes that this database includes a page of testimony submitted by the Claimant in 1999.

The CRT notes that the Claimant did not identify Account Owner Ludwig Cahn. However, the CRT notes that the Claimant was a child at the time of the Account Owner's death, and therefore determines that it is plausible that the Claimant would not know the names of all of his extended family members and that the Claimant's failure to identify Account Owner Ludwig Cahn does not adversely affect the plausibility of his identification of Beneficiary Hugo Hirschfeld and Beneficiary Hedwig Hirschfeld.

The CRT notes that the other claims to this account were disconfirmed because that claimant provided a different city or country of residence or spouse's name than the city or country of residence or spouse's name of the Account Owner or the Beneficiaries.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Ludwig Cahn was a Victim of Nazi Persecution. The Bank's records include a copy of Ludwig Cahn's will, dated 8 April 1933, and indicate that he resided in Germany. The Claimant stated that Ludwig Cahn's daughter was Jewish, so the CRT concludes that Ludwig Cahn was Jewish as well. The CRT further notes that Ludwig Cahn's Estate was administered from Germany after the Nazis' rise to power and that its beneficiaries, including his daughter and son-in-law, were also Victims of Nazi Persecution. The Claimant stated that Beneficiary Hugo Hirschfeld was Jewish, and that he was deported to Theresienstadt, where he perished on 15 March 1944. The Claimant also stated that Beneficiary Hedwig Hirschfeld was Jewish, that she resided in Germany during the Second World War, and that she was deported to Auschwitz. The Claimant submitted a copy of an official letter from the City Archive Offenbach, indicating that Hugo Hirschfeld was deported to Theresienstadt, where he perished on 15 March 1944 and that Hedwig Hirschfeld was deported to Auschwitz, where she disappeared. As noted above, Hugo Hirschfeld and Hedwig Hirschfeld, née Kahn are included in Yad Vashem's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's uncle's father-in-law and that his aunt was a named beneficiary of the Account Owner. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the custody account that was closed on 28 December 1936 and its assets were transferred to the *Commerz & Privat-Bank AG* in Frankfurt. The Bank's records do not indicate the ultimate disposition of the demand deposit account.

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that Beneficiary Hugo Hirschfeld and Beneficiary Hedwig Hirschfeld were deported to concentration camps, that there is no record of the payment of the Account Owner's accounts to the remaining heirs' portions of the estate to those heirs nor any record of a date of closure of the demand deposit account; that the Account Owner's heirs would not have been able to obtain information about the accounts 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; 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 Appendices A and C),³ the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, nor the Beneficiaries, nor 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.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and the parties he represents. 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 his uncle's father-in-law, and that relationship justifies an Award. Third, 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 one custody account. With respect to the 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

³ Appendix C appears on the CRT II website -- www.crt-ii.org.

account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was SF 2,140.00.

With respect to the custody account, the Bank's records indicate that the value of this account as of 28 December 1936 was SF 5,600.00. According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the bond in question to maturity to avoid a capital loss. If a bond was in default, it is valued at market price. Thus, the bonds and the equities held in the custody account shall be valued as follows:

- *6% Rentenbons Compania Hispano-Americana de Electricidad 1920* bonds with a nominal value of SF 1,350.00 and a market value of 52 percent of face value, for a total of SF 702.00.⁴ These bonds were in good standing and, the market value being below the nominal value, are valued at their nominal value.⁵ Therefore, the CRT determines the value of these bonds to be SF 1,350.00.
- *7% Deutsche äussere Anleihe 1924 Schweizertranche* bonds with a nominal value of 200.00 Pound Sterling, which was equivalent to SF 3,060.00.⁶ These bonds were in default and had a market value of 18 percent of face value, for a total of SF 550.80.
- *6% äussere Goldanleihe Rep. Chile 1929* bonds with a nominal value of SF 3,000.00. These bonds were in default and had a market value of 21 percent of face value, for a total of SF 630.00.
- *6% äussere Goldanleihe Rep. Chile 1930* bonds with a nominal value of SF 2,000.00. These bonds were in default and had a market value of 21 percent of face value, for a total of SF 420.00.
- 1 share of *Compania Hispano-Americana de Electricidad* Series A to C, with a market value of 1,500.00 Spanish pesetas ("ESP"), which was equivalent to SF 598.50.
- 1 share of *Compania Hispano-Americana de Electricidad* Series E, with a market value of 298.50 ESP, which was equivalent to SF 119.10.

Thus, the combined value of the bonds and equities held in the custody account as of 28 December 1936 was SF 3,668,40. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00.

⁴ When available, the CRT uses the market values of securities traded in Switzerland, generally from the 30 December issues of the *Kursblatt der Zürcher Effektenbörse*. In the case of the securities listed here, the market values were obtained from the 30 December 1936 issue of the *Kursblatt der Zürcher Effektenbörse*.

⁵ *Moody's Manual of Investments, American and Foreign: Public Utility Securities*, Moody's Investors' Service, New York, 1940, p. 2014; *The Stock Exchange Official Year-Book*, Thomas Skinner, London, 1940. The CRT notes that the low market value recorded in 1937 was consequent upon the outbreak of the Spanish Civil War but did not affect the quality of the bond.

⁶ The CRT uses official exchange rates when making currency conversions.

Thus, the combined 1945 average 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

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a)-(f) of the Rules has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with the principles of fairness and equity. Beneficiary Hugo Hirschfeld is the Claimant's uncle, and Beneficiary Hedwig Hirschfeld is the Claimant's aunt by marriage.

In this case, the Claimant is representing his brother, Menachem Sadeh, and his sister, Chava Levin. Accordingly, the Claimant is entitled to one-third of the total award amount, Menachem Sadeh is entitled to one-third of the total award amount, and Chava Levin is entitled to one-third of the total award amount.

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 claim 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
18 December 2007