

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Evelyne Monique Lang

**in re Account of Elisabeth Hirsch**

Claim Number: 210991/LK<sup>1</sup>

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Evelyne Monique Lang, née Hirsch, (the "Claimant") to the account of Richard Hirsch. This Award is to the account of Elisabeth Hirsch (the "Account Owner") 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 the Account Owner as her paternal aunt, Elisabeth Schwardron, née Hirsch, who was born on 5 January 1909, and was married in 1932 or 1933. The Claimant stated that her aunt, who was Jewish, lived at the family mansion at Reichhartstrasse 1 in Vienna, Austria, with many other relatives, including the Claimant's father, Richard Hirsch and her grandparents, Ernst and Martha Hirsch. The Claimant stated that her father, who was born on 9 March 1903 in Vienna, Austria, was married to Erica Hirsch, neé Bettelheim, in 1933. The Claimant also stated that she is an only child. The Claimant stated that her father was the owner and president of *D.G. Fischel*, a furniture factory located in Vienna, and that he owned factories in Switzerland as well. The Claimant stated that before 1933, her father lived at Reichhartstrasse 1 in Vienna and that in 1933 he lived at 1 Rue Murat in Paris, France. The Claimant stated that her father also kept a country home in Austria. The Claimant further stated that in 1938, her father was in an airplane with a German spy whom the Swiss authorities wanted to arrest and that the plane crashed at the Zurich airport, killing the Claimant's father. The Claimant further stated that her aunt, also known as "Leezy," had a twin sister named Gertrude. The Claimant stated that she does not know the exact fate of her aunt or of her other family members on her father's side during the Second World War, except that they were all forced to flee Austria due to Nazi persecution because they were Jewish. The Claimant stated that her mother was imprisoned in the

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<sup>1</sup> The CRT previously issued a Certified Award to the Claimant to the account of Richard Hirsch (approved by the Court on August 28, 2002) [hereinafter the "August 2002 Award"].

German concentration camp at Drancy, near Paris. The Claimant stated that her mother died on 2 November 1946 in Paris. The Claimant also stated that the Claimant and her maternal grandmother went into hiding separately during the Second World War and that after the war, both she and her maternal grandmother went to the United States. The Claimant added that once in New York, her maternal grandmother, as well as the Claimant's father's sister, Emma, who had already escaped to New York, informed her that all her family's assets were confiscated by the Nazis, including the family's mansion in Vienna; her family's country house in Austria; her family's successful furniture business, and significant artwork and jewelry. In support of her claim, the Claimant submitted a family tree and a copy of her father's birth certificate, indicating that her father's father was Ernst Hirsch. The Claimant also submitted a copy of a Bill, introduced in the House of Representatives of the U.S. Congress, H.R. 2182, dated 29 January 1951, and accompanying Report No. 1267, dated 25 February 1952,<sup>2</sup> providing for a grant of permanent residence status in the United States to the Claimant and her grandmother. These documents confirm the relationship between the Claimant and Richard Hirsch, in addition to confirming the Claimant's explanation of how her father perished. The Claimant indicated that she was born on 26 January 1935 in Vienna, Austria.

### **Information Available in the Bank's Records**

The Bank's records consist of a power of attorney form, signed on 13 November 1929 in Zurich, Switzerland, and printouts from the Bank's database. According to these records, the Account Owner was Elisabeth Hirsch who lived at Reichsratsstrasse 1 in Vienna, Austria, and the Power of Attorney Holder was Ernst Hirsch, who resided at the same address.

The Bank's records indicate that the Account Owner held one custody account,<sup>3</sup> numbered 29386, which was opened no later than 13 November 1929. The Bank's records do not indicate when the account at issue was closed, to whom it was paid, 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, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

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<sup>2</sup> Although the report indicated that Richard Hirsch was an only child, the CRT believes this was an error.

<sup>3</sup> The CRT notes that, although the 2001 List of Swiss Bank Accounts from the ICEP Investigation indicated that the Account Owner held two accounts, the Bank's records clearly show that the Account Owner only held one account.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her paternal aunt's name and city of residence and her paternal grandfather's name and city of residence match the published names and cities of residence of the Account Owner and the Power of Attorney Holder. The Claimant identified her father as the son of the Power of Attorney Holder of the Account Owner's account. The Claimant also identified the street address, where her aunt resided in Vienna, which matches unpublished information contained in the Bank's records.<sup>4</sup> Additionally, the Claimant indicated that her aunt was not married at the time the power of attorney form was executed in 1929, which is consistent with unpublished information about the Account Owner contained in the Bank's records, which only uses her maiden name. In support of her claim, the Claimant submitted a copy of her father's birth certificate, indicating that her father's father was Ernst Hirsch, which matches the name of the Power of Attorney Holder as indicated in the Bank's records. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different maiden names and countries of residence than those of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

### 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, who was Jewish, fled from Vienna, Austria, to escape Nazi persecution.

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents. These documents include her own birth certificate indicating that her father was Richard Hirsch, and her father's birth certificate indicating that his father was Ernst Hirsch. The CRT notes that the Bank's records identified Ernst Hirsch, the Claimant's grandfather, as the Power of Attorney Holder of the Account Owner's account. The Claimant also identified the street address, where her aunt and father resided in Vienna, which matches unpublished information contained in the Bank's records.

### The Issue of Who Received the Proceeds

Given that the Account Owner remained in Austria after the *Anschluss*; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found numerous such

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<sup>4</sup> The CRT notes that, although there is a slight discrepancy in the street name provided by the Claimant compared to the address contained in the Bank's records, the CRT concludes that this difference is not material to the identification of the Account Owner.

confiscations of Swiss bank accounts occurred at this time; that the Account Owner's brother's Swiss bank account was transferred on 9 April 1938 to the *Österrische Creditanstalt*; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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 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 her 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 aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held one custody 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. 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 162,500.00 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).

**Certification of the Award**

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

Claims Resolution Tribunal  
8 April 2004