

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Lynn Blank

in re Accounts of Ernst Hirsch

Claim Number: 210991/GO

Award Amount: 541,462.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Richard Hirsch.¹ This Award is to the published accounts of Ernst Hirsch (the “Account Owner”), over which Martha Hirsch (the “Power of Attorney Holder”) held power of attorney, 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 paternal grandfather Ernst Hirsch. In telephone conversations with the CRT on 25 September 2002 and 8 July 2005, the Claimant indicated that Ernst Hirsch was born on 1 April 1879 and was married to Martha Hirsch, née Lang. The Claimant stated that her grandfather, who was Jewish, had four children: [REDACTED], [REDACTED] (the Claimant’s father), and [REDACTED] and [REDACTED], who were twins. According to the Claimant, her grandfather resided at Reichsratstrasse 1 in Vienna, Austria, and at Dominikanergasse in Vienna. The Claimant indicated that her grandfather owned *D. G. Fischel Söhne*, a bentwood furniture store located on Tuchlauben in Vienna. The Claimant stated that her grandfather was very wealthy and that the Nazi authorities confiscated all her family’s property during the Second World War. The Claimant indicated that her grandfather fled Austria to Switzerland and that his wife, Martha Hirsch, resided at Zugerbergstrasse 3 in Zug, Switzerland in November 1938. The Claimant

¹ In three separate decisions, the CRT awarded the accounts of Richard Hirsch, Elisabeth Hirsch and Alice Stern to the Claimant. See *In re Account of Richard Hirsch* (approved on 5 September 2002); *In re Account of Elisabeth Hirsch* (approved on 8 April 2004); and *In re Accounts of Alice Stern* (approved on 23 February 2006), respectively. The Claimant also claimed the account of *D. G. Fischel Söhne*. The CRT will treat this claim in a separate determination.

stated that her grandfather died on 23 April 1938. The Claimant indicated that her grandmother, Martha Hirsch, resided in New York, the United States, from 1947 until August 1948, when she died.

The Claimant submitted copies of the documents in support of her claim, including: her father's birth certificate, indicating that [REDACTED] was born on 9 March 1903 in Vienna, and that his parents were Martha Hirsch and Ernst Hirsch; her mother's birth certificate, indicating that [REDACTED] was born on 26 July 1912 in Vienna; the Claimant's own birth certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED]; House Resolution 2182 introduced in the United States Congress dated 29 January 1951, and accompanying Report No. 1267 dated 25 February 1952, providing for a grant of permanent residence status in the United States to the Claimant and her grandmother, indicating that [REDACTED] was killed in an airplane crash in 1938, that his wife was imprisoned in Drancy concentration camp and died soon after her liberation in 1946, and that their daughter, [REDACTED], was formally adopted in 1947 by her paternal grandmother, Martha Hirsch, and renamed [REDACTED] by court action; her grandfather's furniture store's 1915 catalog, indicating that *D. G. Fischel Söhne* was bought in 1897 by Ernst Hirsch and later co-owned with his brother [REDACTED] after the First World War; and a settlement agreement, dated 12 November 1938 and signed by [REDACTED], [REDACTED], [REDACTED], and Martha Hirsch, indicating that Martha Hirsch was a widow and heir to Ernst Hirsch's shares in the *D. G. Fischel Soehne* partnership, located at Tuchlauben 11 in Vienna.

The Claimant indicated that she was born on 26 January 1935 in Vienna.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Ernst Hirsch during their investigation of the Bank. The documents evidencing the accounts belonging to Ernst Hirsch were obtained from the Swiss Federal Archive and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Ernst Hirsch, numbered 334. These records indicate that the Account Owner was *Herr* (Mr.) Ernst Hirsch, who resided at Tuchlauben 11 in Vienna, Austria, and who was an owner of *D. G. Fischel Söhne* in Vienna. In addition, these records identify *Frau* (Mrs.) Martha Hirsch as the Power of Attorney Holder.

These records also indicate that the last contact with the Account Owner was prior to May 1945. According to these records, the Account Owner held one demand deposit account with a value of 1,992.00 Swiss Francs (“SF”) as of 1 September 1963. The records further indicate that the Account Owner held a custody account that, as of 1 September 1963, contained securities identified as *7½% Hung. Discount and Exchange Bank Mtge. Bonds Series F* with a nominal value of 9,500.00 United States Dollars (“US \$”) and an undetermined market value, and the coupons from 1 February 1933 until 1 August 1936 for these bonds, the value of which is not indicated.

According to a document dated 12 October 1965, the *Meldestelle für Vermögen verschwundener Ausländer* (Registration Office for Assets of Missing Foreigners, the “Registration Office”) requested that the *Vormundschaftsbehörde der Stadt Zürich* (the Custody Office of the city of Zurich) entrusted the assets to an appointed custodian in 1966 as prescribed by the 1962 Federal Decree. The records from the Swiss Federal Archive do not refer to the ultimate disposition of the assets.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant’s grandfather’s name matches the published name of the Account Owner. The Claimant identified the Account Owner’s city and country of residence, the name of the Power of Attorney Holder, as well as the name, city and country of the Account Owner’s business, which matches unpublished information contained in the records of the Swiss Federal Archive.

In support of her claim, the Claimant submitted documents, including her father’s birth certificate, indicating that [REDACTED] was born on 9 March 1903 in Vienna, and that his parents were Martha Hirsch and Ernst Hirsch, and a reprint of *D. G. Fischel Söhne’s* 1915 catalog, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Swiss Federal Archive records as the name and city of residence of the Account Owner.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city and country of residence and profession than the city and country of residence and profession of 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 was Jewish, that his property was confiscated by the Nazi authorities, and that he fled from Austria to Switzerland.

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 grandfather. These documents include her own birth certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED], and her father's birth certificate, indicating that [REDACTED]'s parents were Martha Hirsch and Ernst Hirsch. There is no information to indicate that the Account Owner has other surviving heirs who have filed claims.

The Issue of Who Received the Proceeds

Given that that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the accounts; that the Account Owner died in 1938 and the accounts were still open as of 1963; that the Account Owner's heirs would not have been able to obtain information about his 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; and given the application of Presumption (h), 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 accounts proceeds were not paid to the Account Owner, the Power of Attorney Holder, 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.

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 paternal grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit and one custody account.

With respect to demand deposit account, the Swiss Federal Archive records indicate that the value of the demand deposit account as of 1 September 1963 was SF 1,992.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 2,277.00. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 28,462.50 for this account.

With respect to custody account, the Swiss Federal Archive records indicate that, as of 1 September 1963, the custody account contained securities identified as *7½% Hung. Discount and Exchange Bank Mtge. Bonds Series F* with a nominal value of US \$9,500.00, which was equivalent to SF 41,040.00.² The CRT notes that Bank collected the interest due on these bonds for 1933-1936, but no amounts are given. Under these circumstances, it is likely that the Bank would have deposited the interest into the demand deposit account referred to above. In 1938, the year in which the Account Owner is presumed to have lost control of his account, these bonds were quoted at 92.75 percent of their nominal value.³ 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. Accordingly, the CRT determines the value of this account to be SF 41,040.00.

The current value of this amount is determined by multiplying the historic balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 513,000.00 for this account.

Consequently, the total award amount is SF 541,462.50.

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
23 April 2007

² The CRT uses official exchange rates when making currency conversions.

³ *Compass Finanzielles Jahrbuch 1944: Ungarn*, Compass-Verlag, Vienna, 1944, p. 260.