

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Margit Diaz

in re Accounts of Ludwig Hirsch and Elisabeth Hirsch

Claim Number: 500330/TW

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Margit Diaz, née Hirsch (the “Claimant”), to the published account of Ludwig Hirsch (“Account Owner Ludwig Hirsch”) and Elisabeth Hirsch (“Account Owner Elisabeth Hirsch”) (together the “Account Owners”) at the Basel branch of the [REDACTED].¹

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 Owners as her parents, Ludwig Hirsch and Elisabeth Hirsch, née Meyerstein. The Claimant indicated that her father was born on 9 May 1892 in Érsekújvár, Hungary (now Slovakia), but could not recall the date and place of birth of her mother. The Claimant indicated that her parents were married on 18 December 1919, in Leipzig, Germany. The Claimant further indicated that her parents had two children, the Claimant and her sister Yvonne Hirsch, who were both born in Berlin, Germany, on 8 June 1924 and 4 July 1928 respectively.

According to the Claimant, until 1938, her family lived in Germany, where her father was the owner of a factory producing packaging, called *Hirsch-Hirsch*. The Claimant indicated that her family, who was Jewish, fled to France in 1938. The Claimant stated that her family first resided in Paris, France, and that in 1941 they went into hiding in Mauvezin-Geres, a small village located approximately 60 kilometers from Toulouse, France. The Claimant indicated that the villagers helped her family, enabling them to survive the Second World War. The Claimant

¹ 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”), Elisabeth Hirsch is indicated as the power of attorney holder over the account of Ludwig Hirsch. Upon careful review, the CRT has concluded that the Bank’s records evidence that Elisabeth Hirsch in fact owned the account jointly with Ludwig Hirsch.

indicated that her grandmother and some of her cousins who had remained in Germany were deported to Theresienstadt. The Claimant stated that her sister, Yvonne Hirsch, died in Paris in 1939, that her father died in Frankfurt-am-Main on 21 May 1963, and that her mother died in Paris, on a date she could not recall.

In support of her claim, the Claimant submitted her birth certificate, showing that she was born in Berlin, and that her parents were Ludwig Hirsch and Lilly Meyerstein, and her family booklet, showing that her parents were Ludwig Hirsch and Elisabeth Meyerstein, and that she was born in Berlin.

The Claimant stated that she was born on 8 June 1924, in Berlin, Germany.

Information Available in the Bank's Record

The Bank's records consist of an account opening contract and a form containing mailing instructions. According to these records, the Account Owners were *Herr* (Mr.) Ludwig Hirsch and *Frau* (Mrs.) Elisabeth Hirsch, née Meyerstein, who resided at Bleibtreustrasse 18, Berlin-Charlottenburg, Germany. The Bank's records indicate that Account Owner Elisabeth Hirsch signed as "Lilly Hirsch." The Bank's records further indicate that the Account Owners jointly held a custody account, numbered 39707, that was opened on 25 January 1934. According to the Bank's records, the Bank was ordered to hold all mail.

The Bank's records do not show when the account at issue 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 Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant's parents' names, city and country of residence, match the published names, city and country of residence of the Account Owners. The Claimant indicated that her mother used a nickname "Lilly," and this information matches the unpublished information about Account Owner Elisabeth Hirsch contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including her family booklet showing that she was born to Ludwig and Elisabeth Hirsch in Berlin, providing independent verification that the persons who are claimed to be the Account Owners had the same names and

resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owners.

The CRT notes that the name Ludwig Hirsch appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owners, or provided a different maiden name than that of Account Owner Elisabeth Hirsch. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they fled from Germany in 1938 for France, and went into hiding in Mauvezin-Geres during the Second World War.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's parents. These documents include the Claimant's family booklet, showing that her parents were Ludwig Hirsch and Elisabeth Meyerstein.

There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owners fled Germany for France in 1938 and went into hiding in Mauvezin-Geres, France, during the Second World; that there is no record of the payment of the Account Owners' accounts to them, nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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 Owners 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 Owners were her parents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners 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 (“SF”). 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 162,500.00.

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
31 March 2005