

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]

and to Claimant Paul Hirsch

in re Account of Paul Hirsch

Claim Numbers: 718706/SJ;¹ 601544/SJ²

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”)³ to the published account of Paul Hirsch and upon the claim of Paul Hirsch (“Claimant Hirsch”) (together the “Claimants”) to the unpublished account of [REDACTED].⁴ This Award is to the published account of Paul Hirsch (the “Account Owner”) at the [REDACTED] (the “Bank”).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.

¹ [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HEB 0205 063, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 718706.

² The Claimant submitted a claim, numbered B-00313, on 24 November 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601544.

³ The CRT notes that Claimant [REDACTED 1] referred to himself throughout his IQ as Paul Hirsch as well as [REDACTED 1]. On 25 October 2004 the CRT attempted to contact Claimant [REDACTED 1] to inquire about his name change and was informed by his widow that he had passed away.

⁴ The CRT did not locate an account belonging to the Claimant’s relative, [REDACTED], 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”). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as himself, Paul Hirsch, who was born on 25 December 1921. Claimant [REDACTED 1], who was Jewish, indicated that he lived in Vienna, Austria from 1934 until August 1937 at Heintelmannstrasse 22/3, Vienna XX. Claimant [REDACTED 1] further indicated that in 1938 he fled Vienna to Palestine. Claimant [REDACTED 1] indicated that his father opened Swiss bank accounts, using a third party to facilitate deposits and indicated that his sister was also sent to deposit jewels for safekeeping. In telephone calls with Claimant [REDACTED 1]’s widow and daughter on 25 October 2004, the CRT was informed that Claimant [REDACTED 1] was known as Paul Hirsch when he lived in Vienna, Austria, prior to the Second World War, and that he received a pension from Austria under his former name, Paul Hirsch, until his death approximately five years ago.

As indicated above, Claimant [REDACTED 1] stated that he was born on 25 December 1921.

Claimant Hirsch submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as himself, Paul Hirsch, who was born on 3 October 1934 in Vienna. Claimant Hirsch, who is Jewish, indicated that he is the son of [REDACTED] and [REDACTED] who were married on 24 May 1925. Claimant Hirsch further indicated that his maternal grandfather, [REDACTED], was a successful teacher and rabbi and that he had repeatedly informed his daughter (Claimant Hirsch’s mother) that her children’s education would be “taken care of” from a fund set up for such purpose. Claimant Hirsch indicated that his grandfather was killed in Theresienstadt in 1942 and that all records were lost during the Holocaust. Claimant Hirsch submitted his own birth certificate and a copy of his mother’s passport, dated 29 December 1938, indicating that she was Jewish and that she had two children, a daughter, [REDACTED], born on 26 September 1926 and Claimant Hirsch, born on 3 October 1934.

As indicated above, Claimant Hirsch stated that he was born on 3 October 1934 in Vienna.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Paul Hirsch who resided in Vienna, Austria. The Bank’s record indicates that the Account Owner held a demand deposit account. The Bank’s record further indicates that the account was opened on 18 August 1935 and was closed in April 1938 (the exact date of the closure of the account is not legible). The amount in the account on the date of its closure is unknown. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. In telephone calls with Claimant [REDACTED 1]'s widow and daughter on 25 October 2004, the CRT was informed that Claimant [REDACTED 1] was known as Paul Hirsch when he lived in Vienna, Austria, prior to the Second World War, and that he received a pension from Austria until his death approximately five years ago. As a result, the CRT concludes that Claimant [REDACTED 1]'s name and country of residence match the published name and country of residence of the Account Owner and that Claimant [REDACTED 1]'s city of residence matches unpublished information about the Account Owner contained in the Bank's record.

The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999 in which he asserts his entitlement to a Swiss bank account owned by himself, Paul Hirsch, prior to the publication in February 2001 of the 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"). This indicates that Claimant [REDACTED 1] has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears his name, but on the belief that he owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

Claimant Hirsch has plausibly identified the Account Owner. Claimant Hirsch's name and country of residence match the published name and country of residence of the Account Owner. Claimant Hirsch identified the Account Owner's city of residence as Vienna, which matches unpublished information about the Account Owner contained in the Bank's record. In support of his claim, Claimant Hirsch submitted documents, including his birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

The CRT notes that Claimant Hirsch filed his HCPO claim form on 24 November 1997, asserting his entitlement to a Swiss bank account owned by himself, Paul Hirsch, prior to the publication of the ICEP List. This indicates that Claimant Hirsch has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears his name, but on the belief that he owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant Hirsch.

The CRT notes that Claimant [REDACTED 1] and Claimant Hirsch are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account was disconfirmed because those claimants provided different cities or countries of residence than the city and country of residence of the Account Owner, the CRT finds that Claimant [REDACTED 1] and Claimant Hirsch have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish and that he fled Austria in 1938.

Claimant Hirsch has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and that his grandfather was killed in Theresienstadt.

The Claimants' Relationship to the Account Owner

The Claimants have each plausibly demonstrated that they are the Account Owner by submitting specific information and documents. Claimant [REDACTED 1] signed his IQ indicating that that he is Paul Hirsch and Claimant Hirsch submitted a copy of his birth certificate. Furthermore, the Claimants each identified unpublished information about the Account Owner as contained in the Bank's record. Additionally, both Claimants filed their claims prior to the publication in February 2001 of the ICEP List. The CRT further notes that each Claimant indicated that there were accounts opened in Switzerland by an older relative.

The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his 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, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner. 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have each plausibly demonstrated that they are the Account Owner, and that justifies an Award. Third, the CRT has determined that it is plausible that the Account Owner has not received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 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 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, Claimant [REDACTED 1] and Claimant Hirsch have each plausibly established that they are the Account Owner. Accordingly, the Estate of Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant Hirsch is entitled to one-half of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
10 December 2004

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