

# CLAIMS RESOLUTION TRIBUNAL

---

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Elisabeth Hirschfeld**

Claim Number: 201078/MBC

Award Amount: 53,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Elisabeth Hirschfeld (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”) and the [REDACTED] (“Bank II”). On 4 February 2002, the Court approved the Award of one custody account and one demand deposit account at Bank I and one custody account at Bank II.<sup>1</sup> The CRT did not reach a decision regarding two demand deposit accounts at Bank II that were closed in the Relevant Period (between 30 January 1933 and 31 December 1945), pending further consideration as to whether or not the Account Owner or her heirs received the proceeds of those accounts. This Award is the result of the further consideration as to whether or not the Account Owner received the proceeds of the remaining two demand deposit accounts at Bank II.

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 his mother, Elisabeth Hirschfeld, née Heiden-Heimer, and identifying himself as the Power of Attorney Holder. The Claimant stated that his mother was born on 23 April 1883 in Mainz, Germany, and was married to [REDACTED] on 14 September 1908 in Mainz. The Claimant stated that his father was born on 9 June 1873 and died on 4 January 1930 in Berlin, Germany. The Claimant indicated that his parents, who were Jewish, had two children, Karl Ernst Hirschfeld, the Claimant, and [REDACTED], née [REDACTED], who was born on 27 August 1912 in Berlin. According to the Claimant, his mother lived at Mommsenstrasse 55 in Berlin between 1908 and 1938, and in New York between 1938 and her death on 22 September 1955. The Claimant explained that prior to the Second World War, his sister lived in Zurich, Switzerland, and that his mother often visited her there. The Claimant indicated that nearly all of his mother’s property, including a

---

<sup>1</sup> See In re Accounts of Elisabeth Hirschfeld (approved on 4 February 2002), hereinafter the “February 2002 Award.”

house in Wannsee and bank accounts, were confiscated by the Nazis, and that she was forced to flee Germany in 1938. In support of his claim, the Claimant submitted a letter from *Deutsche Bank*, dated 21 November 1939, indicating that it had confiscated his assets at *Deutsche Bank* in accordance with Nazi legislation of 28 February 1933 and 10 February 1936. The Claimant also submitted other documents, including a family tree; his mother's United States Certificate of Naturalization, which identifies her as Elisabeth Hirschfeld of Germany; and his German passport, dated 15 March 1933, which identifies him as Karl Ernst Hirschfeld. The Claimant indicated that he changed his name to [REDACTED] upon immigrating to the United States. The Claimant indicated that he was born on 13 December 1909 in Berlin.

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

### Bank I

Bank I's records consist of a customer card, a power of attorney form, signed in Berlin on 17 February 1930, and printouts from Bank I's database. According to these records, the Account Owner was *Frau* (Mrs.) *Wwe.* (widow) Elisabeth Hirschfeld and the Power of Attorney Holder was *Herr* (Mr.) Karl Ernst Hirschfeld, the Account Owner's son, both of whom resided at Mommenstrasse 55 in Berlin-Charlottenburg, Germany (previously at Friedrich-Karl Strasse 15 and at Am Sandwerden 13 in Berlin-Wannsee). According to these records, the Account Owner held one custody account and one demand deposit account. The Bank's records indicate that the custody account, numbered 28843, was opened on 10 February 1930 and closed on 15 December 1937, and contained securities valued at 58,000.00 Swiss Francs as of 12 February 1930. The Bank's records indicate that the demand deposit account was opened on 10 February 1930 and closed on 3 March 1933.<sup>2</sup> There is no information in Bank I's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

### Bank II

Bank II's records consist of a customer card and printouts from Bank II's database. According to these records, the original Account Owner was [REDACTED] of Berlin-Charlottenberg, and *Frau* (Mrs.) Elisabeth Hirschfeld assumed ownership of the accounts on an unknown date. The Bank's records indicate that the Account Owner held one custody account and three demand deposit accounts. The custody account was opened on 20 May 1926 and closed on 20 December 1937. The three demand deposit accounts were opened on 20 May 1926 and closed on 20 February 1932, 10 February 1933, and 31 March 1934. The Bank's records do not indicate to whom the accounts were paid, nor do they indicate the value of the accounts on the dates of their respective closures.

There is no evidence that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

---

<sup>2</sup> The February 2002 award contained an incorrect closure date for the demand deposit account and did not indicate the value of the securities held in the custody account as of 12 February 1930. Upon further examination of Bank I's records, the CRT has included the correct information in this award.

## **The CRT's Analysis**

### Identification of the Account Owner

In the February 2002 award, it was determined that the Claimant had plausibly identified the Account Owner. The Claimant's mother's name and his name match the published names of the Account Owner and the Power of Attorney Holder. The Claimant identified his father's name, the fact that his mother was a widow, and his and his mother's home address, which match unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records. In support of his claim, the Claimant submitted documents, including his mother's United States Certificate of Naturalization; his German passport, dated 15 March 1933, which identifies him as Karl Ernst Hirschfeld; and a letter from *Deutsche Bank* informing him that it had confiscated his assets at *Deutsche Bank* in accordance with Nazi legislation. Finally, the Claimant submitted samples of his and his mother's signatures, which match the signature samples of the Account Owner and Power of Attorney Holder contained in the Bank's records. The CRT notes that there are no other claims to these accounts.

### Status of the Account Owner as a Victim of Nazi Persecution

In the February 2002 award, it was determined that the Claimant had made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that the Nazis confiscated nearly all of her assets, and that she fled Germany for the United States in 1938.

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

In the February 2002 award, it was determined that the Claimant had plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that he is her son. The Claimant indicated that he has a sister, but she has not submitted an independent claim, nor is the Claimant representing her.

### The Issue of Who Received the Proceeds

In evaluating whether the Account Owner or her heirs received the proceeds of the two demand deposit accounts at Bank II, closed on 10 February 1933 and 31 March 1934, the CRT took into account the facts of the closing of the Account Owner's demand deposit accounts in 1933 and 1934, and considered that: the Nazis embarked on a campaign in 1933 to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; the Account Owner remained in Germany until December 1938 and would not have been able to repatriate her accounts to Germany without their confiscation; there is no record of the payment of the Account Owner's accounts to her; and 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 inquires by account owners because of the Banks' concern regarding double liability. Based on these factors, including a practical inability to receive the proceeds of her demand deposit

accounts at the time they were closed in 1933 and 1934, at which time the Account Owner lived in Germany, and given the application of relevant Presumptions (a), (h) and (j),<sup>3</sup> which establish a presumption of such a result in this context, 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.

As indicated above, the demand deposit account, closed on 20 February 1932, is not within the jurisdiction of the CRT as it was not closed within the Relevant Period (between 30 January 1933 and 31 December 1945).

#### 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 his mother, and that relationship justifies an Award. Finally, 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 accounts.

#### Amount of the Award

In this case, the Account Owner held a total of six accounts: one custody account and one demand deposit account at Bank I, and a custody account and three demand deposit accounts at Bank II. As stated above, the custody account and demand deposit account at Bank I and the custody account at Bank II were approved by the court on 4 February 2002. Further, the demand deposit account at Bank II, closed on 20 February 1932, is not within the jurisdiction of the CRT as it was not closed within the Relevant Period

Regarding the custody account at Bank I, the CRT notes that the February 2002 Award used the presumptive value and did not indicate that the account contained securities worth 58,000.00 Swiss Francs as of 12 February 1930. Given that the only available balance predates the closing of the account by more than seven years, and it is plausible that the Account Owner had access to the account for at least three of these seven years (from 12 February 1930 to 30 January 1933) and therefore the CRT does not have information on the value of this custody account as of the time it was closed in December 1937, the CRT finds that the use of the presumptive value for determining the Award amount in the February 2002 Award was correct.

Regarding the two demand deposit accounts held at Bank II, which were closed on 20 February 1933 and 31 March 1934, 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 Independent Committee of Eminent Persons

---

<sup>3</sup> These presumptions are provided for in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), as set forth in the attached Appendix A and in Appendix C to the Rules. Appendix C appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

(“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs, producing a total of 4,280.00 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 in this case of 53,500.00 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 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  
30 Sept 2003