

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Léopold Hirtz

Claim Number: 501591/CN

Award Amount: 59,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the accounts of Theophile Hirtz and T. Hirtz.¹ This Award is to the published accounts of Leopold Hirtz (the “Account Owner”), over which Suzanne Hirtz (the “Power of Attorney Holder”) held power of attorney, at the Basel branch of the [REDACTED] (the “Bank”).²

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 great-uncle, Léopold Hirtz, who was born on 29 August 1883 in Wettolsheim, France.

The Claimant indicated that her great-grandparents, [REDACTED] and [REDACTED], née [REDACTED], who were Jewish, had six children: Léopold, [REDACTED] (Gottlieb),³ [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (the Claimant’s grandmother), who were all born in Wettolsheim. The Claimant further indicated that [REDACTED], who was married to [REDACTED], resided in Mulhouse from 1926 until 1940,

¹ In a separate decision, the CRT awarded the accounts of Theophile Hirtz and T. Hirtz to the Claimant. See *In re Accounts of Theophile Hirtz and T. Hirtz* (approved on 29 March 2006).

² 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”), Leopold Hirtz and *Mme.* Suzanne Hirtz are indicated as having one account each. Upon careful review, the CRT concluded that the Bank’s records show that Léopold Hirtz held two accounts, over which Suzanne Hirtz held power of attorney.

³ The CRT notes that “Gottlieb” is the German equivalent of “Théophile.”

and was deported to Auschwitz, where he perished on 4 May 1944. In a telephone conversation with the CRT on 7 April 2006, the Claimant stated that Léopold Hirtz was also deported to a concentration camp during the Second World War, and that he survived. The Claimant indicated that she did not know whether Léopold Hirtz had any children. The Claimant indicated that her father, [REDACTED], was the son of [REDACTED] (Léopold Hirtz's sister).

The Claimant submitted copies of: (1) a letter from the Commune of Wettolsheim, indicating that [REDACTED] and [REDACTED] had six children: [REDACTED], [REDACTED], [REDACTED], [REDACTED], who was born on 7 May 1880, [REDACTED], who was born on 20 February 1888, and Léopold, who was born on 29 August 1883; (2) the marriage certificate of [REDACTED] and [REDACTED], née [REDACTED]; (3) a certificate from the Archives of Mulhouse, indicating that [REDACTED] was born in Wettolsheim on 20 February 1888, resided in Mulhouse from 12 November 1926 to 15 June 1940, and died in Auschwitz; (4) [REDACTED]'s death certificate, indicating that he was born on 20 February 1888, resided in Mulhouse, and was married to [REDACTED], and that he died in Auschwitz on 4 May 1944; and (5) a detailed family tree, indicating that Léopold Hirtz, [REDACTED], and [REDACTED] were siblings, and that [REDACTED] was the [REDACTED] of [REDACTED 1] and [REDACTED 2].

The Claimant indicated that she was born on 3 March 1942 in Lyon, France. The Claimant is representing her brother, [REDACTED 2], who was born on 8 December 1943, also in Lyon.

Information Available in the Bank's Records

The Bank's records consist of two customer cards. According to these records, the Account Owner was Léopold Hirtz, who resided at 67 Faubourg de Bâle in Mulhouse, France, and the Power of Attorney Holder was *Mme.* (Mrs.) Suzanne Hirtz, the Account Owner's wife. Additionally, the customer cards instructed that no correspondence be sent to the Account Owner, but that instead mail was to be handed over to Mr. Joseph Rein of Mulhouse. The Bank's records indicate that the Account Owner held a time deposit account, numbered 31453, and a savings/passbook account, numbered 8495. The Bank's records indicate that the time deposit account was closed on 24 March 1941. There is no information regarding the closure of the savings/passbook account. The amounts in the accounts are unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's great-uncle's name matches the published name of the Account Owner. In support of her claim, the Claimant submitted documents, including a letter from the Commune of Wettolsheim, providing independent verification that the person who is claimed to be the

Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that the certificate from the archives of Mulhouse and the death certificate of Théophile Hirtz indicate that the brother of the person who is claimed to be the Account Owner resided in the same town recorded in the Bank's records as the city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Suzanne Hirtz, and indicates that her date of birth was 8 November 1898, and that she was deported from Drancy to Auschwitz on Transport 71 on 13 April 1944. The database also includes a person named Theophile Hirtz, and indicates that his date of birth was 20 February 1888, and that he was deported on convoy 72. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Leopold Hirtz 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 CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the country of residence 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 was Jewish and was deported to a concentration camp. Additionally, as noted above, persons named Theophile Hirtz and Suzanne Hirtz, whose names match those of the Account Owner's brother and the Power of Attorney Holder (the Account Owner's wife), were included in the CRT's database of victims.

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 paternal great-uncle. These documents include a letter from the Commune of Wettolsheim, indicating that [REDACTED] and [REDACTED] had six children, including [REDACTED] and Léopold. The CRT further notes that the Claimant submitted the marriage certificate of [REDACTED] and [REDACTED], née [REDACTED]; a certificate from the Archives of Mulhouse; and [REDACTED]'s death certificate. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and which provide independent verification that the Claimant's relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant

as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The Bank's records indicate that the time deposit account was closed on 24 March 1941. There is no information regarding the disposition of the savings/passbook account.

Given that the Account Owner resided in Nazi-occupied France; that the Account Owner and the Power of Attorney Holder were deported to a concentration camp; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his 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 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, 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 and represented party [REDACTED 2]. 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 great-uncle, 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 a time deposit account and a savings/passbook 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. In case of the time deposit account, which is treated here as an account of unknown type, based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of an account of unknown type was SF 3,950.00, and the average value of a savings/passbook account was SF 830.00. Thus, the total 1945 average value of the two accounts is SF 4,780.00.

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 59,750.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her brother. Accordingly, the Claimant and represented party [REDACTED 2] are each entitled to one-half of the total award amount.

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
28 June 2006