

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

**in re Accounts of Bertha Kaufmann,
Hedwig Landesmann, and Hermine Hirsch**

Claim Numbers: 215974/MC; 215975/MC; 215976/MC

Award Amount: 302,472.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Bertha Kaufmann, (“Account Owner Kaufmann”), Hedwig Landesmann, (“Account Owner Landesmann”), and Hermine Hirsch (“Account Owner Hirsch”) (together the “Account Owners”) 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, the son of Bertha Kaufman, who was born in Vienna on November 17, 1929, submitted three Claim Forms to the CRT identifying the Account Owners as his mother, Bertha Kaufmann, née [REDACTED], his maternal aunt, Hedwig Landesmann, née [REDACTED], and his maternal grandmother, Hermine Hirsch, née [REDACTED]. The Claimant stated that his mother was born on 30 August 1893 in Vienna, Austria and was married to [REDACTED]. The Claimant further stated that Hedwig Landesmann, his mother’s sister, was born in Vienna, and was married to [REDACTED], and his grandmother, Hermine Hirsch, was born in Vienna, and was married to [REDACTED]. According to the Claimant, his mother and his aunt, who were Jewish, lived at Förstergasse 4 in Vienna and his grandmother, who was also Jewish, lived at Franz Josefs Kai in Vienna.

The Claimant stated that [REDACTED] and Bertha Kaufmann sent their two children, the Claimant and his sister, [REDACTED], to England on *Kindertransporte* in December 1938 and January 1939, respectively. The Claimant further stated that his father, [REDACTED], fled to England in May 1939 upon his release from Dachau, where he had been imprisoned by the Nazis because he was Jewish. The Claimant also noted that, on approximately 15 August 1939, his mother, his aunt and uncle, and his grandmother fled to Cambridge, England, where they joined

the Claimant's father. In 1940, the Claimant's mother and her immediate family immigrated to the United States, at which time they changed the spelling of their last name to [REDACTED].

The Claimant stated that his aunt remained in Cambridge during the Second World War. She and her husband, [REDACTED], had no children. According to the Claimant, [REDACTED] was committed to an institution in England, in which he subsequently died. Shortly thereafter, in 1945, his aunt committed suicide.

The Claimant stated that his grandmother, Hermine Hirsch, lived with her daughter Hedwig Landesmann in England until her daughter's death, at which time she immigrated to the United States, where she died in the early 1950s. The Claimant stated that his mother died on 18 January 1984, and that his sister had no children and died in 1991.

Information Available in the Bank Records

The bank records indicate that the Account Owners held four accounts at the Bank. The records state that Account Owner Kaufmann and Account Owner Landesmann owned a joint custody account numbered 37707. These records consist of printouts from the Bank's electronic database, copies of account opening cards, two forms signed by Account Owner Landesmann's husband granting her permission to hold an account at the Bank (*Zustimmungserklärung des Ehemannes*), Power of Attorney authorization forms, a list of custody accounts of clients domiciled in Austria that were closed in 1938, and a publication regarding Austrian laws that restricted foreign currency transactions. As evidenced by one of the permission forms signed by Account Owner Landesmann's husband dated 16 May 1934, account number 37707 was opened by that date. The account opening card for that account indicates that Account Owner Kaufmann resided at Förstergasse 4 in Vienna II. This card states that the account was closed on 22 August 1938. The list of custody accounts closed in 1938 indicates that the assets totaling 4,500.00 Swiss Francs in that account were transferred from the account to an undisclosed bank on 22 August 1938 pursuant to the Austrian legislation restricting foreign currency transactions. There is no evidence in the bank records that Account Owner Kaufmann and Account Owner Landesmann or their heirs closed the account and received the proceeds themselves.

A second account opening card and a second permission form signed by her husband states that Account Owner Landesmann opened a custody account, numbered 42175, as sole account owner on 31 August 1938. This card indicates that Account Owner Landesmann requested that the Bank hold all correspondence. Notations on her husband's permission form for this account indicates that the account was closed on 21 January 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the bank records that Account Owner Landesmann or her heirs closed the account and received the proceeds themselves.

As for the accounts belonging to Account Owner Hirsch, the bank records consist of printouts from the Bank's electronic database, copies of account opening cards, a form signed by Account Owner Hirsch's husband granting her permission to hold an account at the Bank, Power of Attorney authorization forms, a list of custody accounts of clients domiciled in Austria that were closed in 1938, and a publication regarding Austrian laws that restricted foreign currency

transactions. According to these records, Hermine Hirsch held a custody and a demand deposit account at the Bank. As for the custody account, the bank records state that the sole Account Owner was Hermine Hirsch, née “[REDACTED]”, who resided at Franz Josefskai 49 in Vienna I. As evidenced by the permission form signed by Account Owner Hirsch’s husband, [REDACTED], dated 10 July 1931, the custody account, numbered 32864, was opened by that date. The printouts from the Bank’s electronic database indicate that [REDACTED] was the Power of Attorney holder until 5 June 1934, when his Power of Attorney was annulled. On 9 July 1932, Account Owner Hirsch granted Power of Attorney over the account to Bertha Kaufmann, and on 15 June 1934, she granted Power of Attorney over the account to Hedwig Landesmann. The list of custody accounts closed in 1938 indicates that the assets totaling 5,400.00 Swiss Francs in account number 32864 were transferred from that account to an undisclosed bank on 22 August 1938 pursuant to the Austrian legislation restricting foreign currency transactions. The Power of Attorney forms state that the account was closed on 23 November 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the bank records that Account Owner Hirsch or her heirs closed the account and received the proceeds themselves.

As regards the demand deposit account, the bank records state that the sole Account Owner was Hermine Hirsch. The printouts from the Bank’s electronic database and a form granting Power of Attorney over the account to Bernhard Hirsch state that the account, numbered 32864, was opened by 10 July 1931. According to the records, Bernhard Hirsch’s Power of Attorney was annulled on 5 June 1934. On 9 July 1932, Account Owner Hirsch granted Power of Attorney over the account to Bertha Kaufmann, and on 15 June 1934, she granted Power of Attorney over the account to Hedwig Landesmann. The Power of Attorney forms indicate that the account was closed on 23 November 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the bank records that Account Owner Hirsch or her heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Hermine Hirsch, née [REDACTED], Bertha Kaufmann, née [REDACTED], and Hedwig Landesmann. The file concerning the assets of Hermine Hirsch, numbered 21670, indicates that she was born on 2 August 1869 and that she lived at Franz-Josefs Kai 49 in Vienna I. The records indicate that Hermine Hirsch owned a house at Förstergasse 4 in Vienna II. The records also state that Hermine Hirsch had two daughters, Hedwig Landesmann and Bertha Kaufmann. According to these records, as of 14 June 1939, Hermine Hirsch owned assets totaling 54,737.00 Reichsmarks. The records state further that she was assessed a “Jewish Assets Tax” (*Judenvermögensabgabe*) of 9,600.00 Reichsmarks and a so-called “flight tax” (*Reichsfluchtsteuer*) of 11,284.00 Reichsmarks. These records indicate, in addition, that Hermine Hirsch owned securities at the Bank valued at 5,566.00 Swiss Francs.

The file concerning the assets of Bertha Kaufmann, née Hirsch, numbered 20084, indicates that

she was born on 30 August 1893, that she was married to [REDACTED], and that she lived at Förstergasse 4 in Vienna II. A supplement to Bertha Kaufmann's 1938 submissions, dated 12 May 1939, indicates that Bertha Kaufmann resided at Franz-Josefs Kai 49 in Vienna I. According to these records, as of 12 November 1938, Bertha Kaufmann owned assets totaling 8,429.00 Reichsmarks. The records also indicate that Bertha Kaufmann held a joint custody account with Hedwig Landesmann, who also resided at Förstergasse 4, at the Bank valued at 4,214.00 Swiss Francs.

The file concerning the assets of Hedwig Landesmann, numbered 18572, indicates that she was born on 9 April 1895, that she was married to [REDACTED], and that she lived at Förstergasse 4 in Vienna II. According to the records, as of 12 July 1938, Hedwig Landesmann owned assets totaling 8,142.87 Reichsmarks. The documents do not identify assets at the Bank.

The CRT's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (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 three claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His relatives' names match the published names of the Account Owners. The Claimant has identified the addresses and maiden names of his relatives, which match unpublished information about the Account Owners contained in the bank documents. Finally, the Claimant submitted a sample of his mother's signature, which matches the signature samples contained in the bank records.

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 and lived in Nazi-controlled Austria. The Claimant stated that the Account Owners were forced to flee Austria in 1939.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents, including the certificates of United States citizenship for his mother and himself, demonstrating that he is the son of Account Owner Bertha Kaufmann. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts at issue were paid to the Account Owners or their heirs, the CRT must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the “ICEP Investigation”) demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owners or the Power of Attorney Holder, there is a substantial likelihood that these funds went to the Nazis.

Although the CRT cannot determine with certainty who received the proceeds of the accounts, the CRT concludes that it is plausible that neither the Account Owners nor their heirs received the proceeds.¹ The application of confiscatory laws in Austria by the Nazi Regime after the *Anschluss* of March 1938, as described in more detail in footnote 1 below, makes it unlikely that the Account Owners received the proceeds themselves. In view of the fact that the Bank’s records indicate that two of the Account Owner’s accounts were transferred to an undisclosed bank pursuant to Austrian legislation restricting foreign currency transactions, the CRT concludes that it is plausible that there was a coerced transfer to the Nazis. The CRT’s conclusion is required by Article 34(a) and (d) of the Rules Governing the Claims Resolution Process (the “Rules”), which provide that where an account was closed after the date of occupation of the country of residence of the account owner or the account had been declared in a Nazi census of Jewish assets, the CRT shall presume that neither the account owners nor their heirs received the proceeds of the claimed account. With respect to the two accounts closed in 1939, the CRT’s conclusion is also required by Article 34(f) of the Rules which provides that in cases where an account owner owns other accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities, the CRT shall presume that neither the account owners nor their heirs received the proceeds of the claimed accounts. Moreover,

¹ In reaching this conclusion, the CRT is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. After the annexation of Austria, German laws were extended to apply there as well, and these laws applied to foreign assets of Austrian citizens as a result of a law promulgated on 23 March 1938. Although many of the laws were facially non-discriminatory, the Nazi Regime enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of Austria, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, www.crt.ii.org.

there is no evidence in the bank records suggesting that the Account Owners in this case closed the accounts and received the proceeds themselves.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his mother, aunt, and grandmother, and those relationships justify an Award. Finally, the CRT has determined that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

The Bank records state that the value of the custody account jointly held by Account Owner Kaufmann and Account Owner Landesmann as of 22 August 1938 was 4,500.00 Swiss Francs. The Austrian State Archives records pertaining to Bertha Kaufmann refer to a joint custody owned by Account Owner Kaufmann and Account Owner Landesmann valued at 4,214.00 Swiss Francs. According to Article 35 of the Rules, if the amount in a custody account was less than 13,000.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 13,000.00 Swiss Francs. In this case, Account Owner Kaufmann declared the value of the account to be 4,214.00 Swiss Francs. Because the Account Owner herself declared the account's value to be approximately the same as the amount recorded in the bank documents, the amount in the account shall be determined to be 4,500.00 Swiss Francs. The present value of this amount is determined by multiplying the historic value by a factor of 12, in accordance with Article 37(1) of the Rules. Consequently, the award amount for this account is 54,000.00 Swiss Francs.

The Bank records state that the value of the custody account owned by Account Owner Hirsch as of 22 August 1938 was 5,400.00 Swiss Francs. The Austrian State Archives records indicate that the value of the account was 5,566.00 Swiss Francs. According to Article 35 of the Rules, if the amount in a custody account was less than 13,000.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 13,000.00 Swiss Francs. In this case, Account Owner Hirsch declared the value of the account to be 5,566.00 Swiss Francs. Because the Account Owner herself declared its value, the amount in the account shall be determined to be 5,566.00 Swiss Francs. The present value of this amount is determined by multiplying the historic value by a factor of 12, in accordance with Article 37(1) of the Rules. Consequently, the award amount for this account is 66,792.00 Swiss Francs.

Pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case for the custody account owned by Account Owner Landesmann and for the demand deposit account owned by Account Owner Hirsch, the average value of the same or a similar type of account in 1945 is used to calculate the present 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, and the average value of a demand deposit account was 2,140.00 Swiss Francs. The present value of these amounts is calculated by multiplying them by a factor of 12, in accordance with Article

37(1) of the Rules, to produce an award amount of 156,000.00 Swiss Francs for the custody account and 25,680.00 Swiss Francs for the demand deposit account.

Accordingly, the total award amount is 302,472.00 Swiss Francs.

Articles 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account value of a demand deposit account and a custody account. Thus the initial payment amount 184,380.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the CRT will carry out further research on his claims 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