

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants Dr. Thomas J. Fillion,

Dr. Albert A. Hirsch,

and Susan Reisner

in re Accounts of Wilhelm Marx

Claim Numbers: 500399/AK, 500587/AK, 500657/AK

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of Dr. Thomas J. Fillion (“Claimant Fillion”), Dr. Albert A. Hirsch (Claimant Hirsch), and Susan Reisner, née Archenhold, (“Claimant Reisner”) (together the “Claimants”) to the published accounts of Wilhelm Marx (the “Account Owner”), over which Sophie Marx (the “Power of Attorney Holder”) held power of attorney at the [REDACTED].

All awards are published. Where the claimants have not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimants

Claimant Reisner and Claimant Hirsch submitted Claim Forms identifying the Account Owner and the Power of Attorney Holder as their maternal grandparents, Wilhelm Marx and Sophie Marx, née Oppenheimer. Claimant Fillion submitted a Claim Form identifying the Account Owner and the Power of Attorney Holder as his maternal great-grandparents. The Claimants indicated that their relative Wilhelm Marx was born on 14 January 1875 in Nördlingen, Germany, and that he was married to Sophie Oppenheimer in Hannover, Germany, in 1902. The Claimants further indicated that Wilhelm and Sophie Marx had two children: Elisabeth, who is Claimant Reisner’s mother, and Anna, who is Claimant Hirsch’s mother and Claimant Fillion’s maternal grandmother. Claimant Hirsch stated that his relatives resided in Munich, Germany, at Ohmstrasse 20. The Claimants further indicated that Wilhelm Marx owned a printing factory. The Claimants stated that Wilhelm Marx was arrested and incarcerated in Dachau in November 1938, and that his company was confiscated by the German authorities. The Claimants stated that Wilhelm and Sophie Marx fled Germany for the United States in early 1940, where Sophie Marx died on 5 October 1950 in Kansas City, Missouri, the United States, and Wilhelm Marx died on 15 September 1966 in Milwaukee, Wisconsin, the United States.

In support of his claim, Claimant Fillion submitted a family history written in 1922 by Louis H. Oppenheimer, the paternal uncle of Sophie Marx, indicating that she was married to Willi Marx, and that they resided in Munich. Claimant Reisner submitted an excerpt of her mother's autobiography written in 1999, indicating that Wilhelm Marx was a businessman in Munich married to Sophie Oppenheimer, and that his factory was confiscated by the German authorities in November 1938, shortly after *Kristallnacht* ("the Night of Broken Glass").

Claimant Fillion indicated that he is the son of Anna Hirsch's daughter, Eva, and that he was born on 5 September 1952 in Ann Arbor, Michigan, the United States. Claimant Hirsch indicated that he was born on 21 January 1933 in Heidelberg, Germany. Claimant Reisner did not indicate her date and place of birth.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Wilhelm Marx, who resided at Ohmstrasse 20 in Munich, Germany, and the Power of Attorney Holder was Sophie Marx, née Oppenheimer, the Account Owner's wife. The Bank's record indicates that the Account Owner held a demand deposit account and a custody account with the number 30639. The Bank's record further indicates that the accounts were opened on 12 October 1930 and closed on 14 July 1933. The Bank's record does not indicate the value of these accounts. There is no evidence in the Bank's record that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' relatives' names match the published names of the Account Owner and the Power of Attorney Holder. The Claimants' relatives' city and country of residence match the published country and city of residence of the Account Owner. The Claimants also stated that Wilhelm Marx was married to Sophie Oppenheimer, which matches unpublished information about the relationship between the Account Owner and the Power of Attorney Holder. Moreover, Claimant Hirsch identified his relatives' street address in Munich, which matches unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's record.

In support of his claim, Claimant Fillion submitted documents, including a detailed family tree and a family history written in 1922 by Louis H. Oppenheimer, a paternal uncle of Sophie Oppenheimer, indicating that she was married to Willi Marx, and that they resided in Munich. Claimant Reisner submitted her mother's autobiography, indicating that Wilhelm Marx, who was a businessman in Munich, was married to Sophie Oppenheimer. These documents provide independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder 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 and the Power of Attorney Holder.

The CRT notes that the name Wilhelm Marx 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 there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that his assets were confiscated by the German authorities, and that he was arrested in November 1938 and incarcerated in Dachau.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant Hirsch's and Claimant Reisner's grandfather, and Claimant Fillion's great-grandfather. The CRT notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that Claimant Reisner submitted an excerpt of the Account Owner's daughter's autobiography, indicating that Sophie Oppenheimer was married to Sophie Marx; and that Claimant Fillion submitted a history of Sophie Oppenheimer's family, indicating that she was married to the Account Owner. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that most likely only family members would possess and indicates that the Account Owner and the Power of Attorney Holder were well known to the Claimants as family members, and all of this information supports the plausibility that the Claimants are related to the Account Owner and the Power of Attorney Holder, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until 1940, and would not have been able to repatriate his accounts to Germany without losing ultimate control over its proceeds; that the Account Owner's assets were confiscated by the Nazi regime; 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; 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) and Appendix C,¹ 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.¹

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, Claimant Hirsch and Claimant Reisner have plausibly demonstrated that the Account Owner was their grandfather, and Claimant Fillion has plausibly demonstrated that the Account Owner was his great-grandfather, and those relationships justify 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 one demand deposit account and 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 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 a demand deposit account was 2,140.00 Swiss Francs ("SF"), and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. 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 189,250.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Accordingly, Claimant Reisner, as the daughter of the Account Owner's daughter Elisabeth, is entitled to one-half of the total award amount, and Claimant Hirsch who is the son of the Account Owner's other daughter, Anna, and Claimant Fillion who is the son of Anna Hirsch's daughter, Eva, are each entitled to one-quarter of the total award amount.

¹ Appendix C appears on the CRT II website -- <<www.crt-ii.org>>.

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
18 November 2004