

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]

and to Claimant Dr. [REDACTED 2]
also acting on behalf of [REDACTED 3] and [REDACTED 4]

in re Accounts of Alex Moses

Claim Numbers: 501563/SJ, 500588/SJ

Award Amount: 351,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the published accounts of Alex Moses, and upon the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Siegfried Moses.¹ This Award is to the published accounts of Alex Moses (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant Hirsch has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her maternal grandfather, Alex Moses, who was born on 29 April 1870 in Filehne, Posen, Germany (now Wielun, Poland), and who was married to [REDACTED] on 5 June 1900 in Königshütte, Germany. Claimant [REDACTED 1] indicated that her grandfather, who was Jewish, was a businessman in Berlin, Germany, where he was the co-owner of a business called *Leopold Koenigsberger*, located at Kommandantenstrasse 6. Claimant [REDACTED 1] further indicated that her grandfather resided at Helmstedterstrasse 15 in Berlin-Wilmersdorf. Claimant [REDACTED 1] stated that her grandparents had three daughters: [REDACTED], who was born in 1900 in Germany and died in Buenos Aires, Argentina; [REDACTED], who was born on 14 March 1905 in Germany and died in California, the United States; and [REDACTED] (Claimant

¹ In a separate decision, the CRT has previously awarded the accounts of Siegfried Moses to Claimant [REDACTED 2]. See *In re Accounts of Siegfried Moses*, which was approved by the Court on 20 May 2004.

[REDACTED 1]'s mother), who was born on 11 April 1910 in Berlin and died on 31 July 1984 in New York, the United States. Claimant [REDACTED 1] further indicated that her grandfather likely traveled for business, also to Switzerland.

Claimant [REDACTED 1] submitted a notarized declaration by her grandmother, [REDACTED], declaring that in October 1938 Alex Moses' health was seriously affected by the aryanization of his business, *Leopold Koenigsberger*, and that he was hospitalized as a result; that in November 1938 Alex Moses was no longer allowed to be a patient at Paulinen Hospital, as the hospital was no longer treating Jewish patients, and that he died at home on 22 February 1939. Claimant [REDACTED 1] indicated that [REDACTED] died in New York in 1971.

Claimant [REDACTED] also submitted the discharge records of Alex Moses from the Paulinen Hospital; the marriage certificate of Alex and [REDACTED] Moses; the birth certificate of [REDACTED], stating that she was the daughter of the businessman Alex Moses and [REDACTED], née [REDACTED]; the German passport of Claimant [REDACTED 1]'s mother, [REDACTED] (later [REDACTED]); the marriage certificate of Claimant [REDACTED 1]'s parents, [REDACTED] and [REDACTED], showing that [REDACTED] lived at Helmstedterstrasse 15 in Berlin-Wilmersdorf, and that she was the daughter of Alex Moses; the birth certificate of Claimant [REDACTED 1], showing that she was born to [REDACTED] and [REDACTED] on 30 May 1936 in New York; Claimant [REDACTED 1]'s United States passport, issued on 17 July 1937; and a copy of [REDACTED]'s United States passport.

As noted above, Claimant [REDACTED 1] stated that she was born on 30 May 1936 in New York.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her paternal uncle, Alex Moses, the brother of her father, [REDACTED]. Claimant [REDACTED 2] indicated that her father was born on 8 October 1879 in Filehne, Germany, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] stated that her father co-owned a wholesale clothing business with his brother, [REDACTED], and that the business was called *Leopold Koenigsberger* and was located at Kommandantenstrasse 6, Berlin, Germany.

In support of her claim, Claimant [REDACTED 2] submitted a copy of her mother's Declaration of Intention for United States citizenship, dated 4 August 1943, showing that the Claimant's parents were married on 7 July 1911 in Paderborn, Germany; her own United States naturalization certificate, identifying her as [REDACTED 2]; her father's United States naturalization certificate; her birth certificate, identifying her parents as [REDACTED] and [REDACTED], née [REDACTED]; her marriage certificate, showing that the Claimant's maiden name is [REDACTED] and that she was married to [REDACTED] on 26 December 1933 in Berlin-Wilmersdorf; and a family tree.

Claimant [REDACTED 2] stated that she was born on 2 May 1912 in Berlin. Claimant [REDACTED 2] represents her sister, [REDACTED 3], née [REDACTED], who was born on 20 June 1917 in Berlin; and her brother, [REDACTED 4], who was born in Berlin on 3 April 1920.

Information Available in the Bank's Records

The Bank's records consist of two customer cards. According to these records, the Account Owner was Alex Moses, who resided in Berlin-Wilmersdorf, Germany. The Bank's records indicate that the Account Owner held a demand deposit account and two custody accounts. The Bank's records indicate that the demand deposit account was opened on 15 August 1930 and closed on 10 November 1937. The Bank's records further indicate that one custody account, which was numbered L8188, was opened on 23 August 1930 and closed on 22 September 1938. The Bank's records indicate that the second custody account was numbered L35861 and was closed on 9 March 1934.

The Bank's records do not indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owner or his 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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name and country of residence of Claimant [REDACTED 1]'s grandfather and Claimant [REDACTED 2]'s uncle match the published name and country of residence of the Account Owner. The Claimants identified their relative's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records. Claimant [REDACTED 1] specified that her grandfather resided in Wilmersdorf, which further matches unpublished information about the Account Owner's residence contained in the Bank's records.

In support of her claim, Claimant [REDACTED 1] submitted documents, including the discharge records of Alex Moses from the Paulinen Hospital, the marriage certificate of Alex and [REDACTED] Moses, and the marriage certificate of Alex Moses' daughter, [REDACTED], showing that Alex Moses was a business owner who lived at Helmstedterstrasse 15 in Berlin-Wilmersdorf, all of which provides independent verification that the person who is claimed to be the Account Owner had the same name and resided at the same address recorded in the Bank's records as the name and address of the Account Owner.

The CRT notes that the name Alex Moses appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the

“ICEP Investigation”) to be probably or possibly those of victims of Nazi persecution (the “ICEP List”). Furthermore, the CRT notes that there are no other claims to these accounts.

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, that his company was aryanized, and that he was discharged from the Paulinen Hospital in November 1938, as the hospital was no longer treating Jewish patients.

The Claimants’ Relationships to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the grandfather of Claimant [REDACTED 1] and the uncle of Claimant [REDACTED 2]. Claimant [REDACTED 1] submitted the birth certificate of [REDACTED], showing that she was the daughter of the businessman Alex Moses and [REDACTED], née [REDACTED]; the marriage certificate of Claimant [REDACTED 1]’s parents, [REDACTED] and [REDACTED], showing that [REDACTED] was the daughter of Alex Moses; and the birth certificate of Claimant [REDACTED 1], showing that she was born to [REDACTED] and [REDACTED] on 30 May 1936 in New York City, the United States.

Claimant [REDACTED 2] submitted a copy of her birth and marriage certificates, which state that her father was [REDACTED], that her maiden name was [REDACTED], and that she resided in Berlin-Wilmersdorf, which provides independent verification that Claimant [REDACTED 2] and her relatives bore the same family name and lived in the same city as the Account Owner. The CRT notes that Claimant [REDACTED 2] identified unpublished information about the Account Owner as contained in the Bank’s records and notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to Claimant [REDACTED 2] as a family member, and all this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

With respect to the custody account numbered L35861 that was closed on 9 March 1934, the demand deposit account closed on 10 November 1937, and the custody account numbered L8188 closed on 22 September 1938, 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 his death in 1939, and would not have been able to repatriate his accounts to Germany without losing ultimate control over their proceeds; 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 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 (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,² the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his 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 Claimant [REDACTED 1]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts. Further, the CRT notes that Claimant [REDACTED 1], as the Account Owner's granddaughter, has a better entitlement to the accounts than do Claimant [REDACTED 2] and her siblings, whom she represents, who are the Account Owner's nieces and nephew.

Amount of the Award

In this case, the Account Owner held one demand deposit account and two custody accounts. 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 ICEP (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. As a result, the total 1945 average value of the accounts held by the Account Owner is SF 28,140.00. 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 351,750.00.

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. As indicated above, Claimant [REDACTED 1], as the direct descendant of the Account Owner, has a better entitlement to the accounts than Claimant [REDACTED 2] and Claimant [REDACTED 2]'s siblings, who are descendants of the Account Owner's parents. Accordingly, Claimant [REDACTED 1] is entitled to the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out

² Appendix C appears on the CRT II website -- www.crt-ii.org

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
31 March 2005