

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to the Estate of Claimant [REDACTED 1]

to Claimant [REDACTED 2]

and to Claimant [REDACTED 3]¹

in re Account of Paul Hirsch

Claim Numbers: 718706/MBC;² 601544/MBC;³ 601386/MBC⁴

Original Award Amount: 26,750.00 Swiss Francs

Award Amendment Amount: 8,916.67 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”),⁵ and [REDACTED 2] (“Claimant [REDACTED 2]”) to an account of Simon Molnar,⁶ and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to an account of Morris (Moses) Leib Hirsch.⁷ This Award Amendment is to the published account of Paul Hirsch (the “Account Owner”) at the [REDACTED] (the “Bank”).

¹ On 10 December 2004, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) and to Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) for the account of Paul Hirsch (the “December 2004 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HEB 0205 063, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 718706.

³ Claimant [REDACTED 2] submitted a claim, numbered B-00313, on 24 November 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601544.

⁴ Claimant [REDACTED 3] submitted a claim, numbered B-01294, on 21 September 1998, to the HCPO. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601386.

⁵ The CRT notes that Claimant [REDACTED 1] referred to himself throughout his IQ as [REDACTED 1] as well as [REDACTED 1]. On 25 October 2004 the CRT attempted to contact Claimant [REDACTED 1] to inquire about his name change and was informed by his widow that he had passed away.

⁶ The CRT will treat the claim to this account in a separate determination.

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

Procedural History

On 10 December 2004, the Court approved an Award to Claimant [REDACTED 1] and Claimant [REDACTED 2] for the Account Owner's account (the "December 2004 Award"). In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 3]. Subsequent review of Claimant [REDACTED 3]'s timely claim indicates that he is entitled to share in the original award amount, as detailed below.

The December 2004 Award

In the December 2004 Award, the CRT determined that the Account Owner owned one demand deposit account. The CRT further determined that Claimant [REDACTED 1] and Claimant [REDACTED 2] plausibly identified the Account Owner, that they plausibly demonstrated that they are the Account Owner, and that they made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his demand deposit account. The CRT noted that the Bank's record did not indicate the value of the account, and therefore presumed that its value was 2,140.00 Swiss Francs ("SF"), and determined that the December 2004 Award amount was SF 26,750.00. Finally, the CRT determined that Claimant [REDACTED 1] and Claimant [REDACTED 2] were each entitled to one-half of the award amount.

Information Provided by Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a claim to the Holocaust Claims Processing Office ("HCPO") identifying the Account Owner as his maternal uncle, Paul Hirsch. In a telephone conversation with the CRT on 22 August, 2005, Claimant [REDACTED 3] indicated that in 1917, his uncle, who was Jewish and who was born in approximately 1890, moved to Vienna, Austria, where he owned a jewelry store. In that call, Claimant [REDACTED 3] stated that his uncle, his wife, [REDACTED], and his daughter, [REDACTED], fled from Vienna to France in 1939. Furthermore, Claimant [REDACTED 3] indicated that his uncle died in the 1960s in France. In support of his claim, Claimant [REDACTED] submitted: (1) his birth certificate indicating that he was born in Vienna, that he was Jewish, and that his parents, who resided in Vienna, were [REDACTED] and [REDACTED]; and (2) a translation of his parent's marriage certificate indicating that they were married in Vienna in May 1918. Claimant [REDACTED 3] indicated he was born in Vienna on 10 December, 1921.

Information Available in the Bank's Record

As detailed in the December 2004 Award, the Bank's record indicates the name and city and country of residence of the Account Owner. The record indicates that the Account Owner held one demand deposit account, which was closed in April 1938.

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.

Claimant [REDACTED 3]'s Identification of the Account Owner

Claimant [REDACTED 3]'s uncle's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 3] further identified the Account Owner's city of residence as Vienna, which matches unpublished information in the Bank's record.

In support of his claim, Claimant [REDACTED 3] submitted documents, including: (1) his birth certificate indicating that he was born in Vienna, and that his parents, who resided in Vienna, were [REDACTED] and [REDACTED]; and (2) a translation of his parent's marriage certificate indicating that they were married in Vienna in May 1918. These documents provide independent verification that the person who is claimed to be the Account Owner had the same last name as the Claimant's father, and that the Claimant's family resided in the same city recorded in the Bank's records as the last name, and city of residence of the Account Owner.

The CRT notes that Claimant [REDACTED 1]'s, Claimant [REDACTED 2]'s, and Claimant [REDACTED 3]'s relatives are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because those claimants provided different cities or countries of residence than the city and country of residence of the Account Owner, the CRT finds that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 3] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish, and that he and his family were forced to flee from Vienna to France in 1939.

Claimant [REDACTED 3]'s Relationship to the Account Owner

Claimant [REDACTED 3] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was his uncle. The CRT notes that Claimant [REDACTED 3] identified unpublished information about the Account Owner as contained in the Bank's record. The CRT further notes that Claimant [REDACTED 3] filed a claim with the HCPO on 21 September 1998, identifying the relationship between the Account Owner and Claimant [REDACTED 3], prior to the publication in February 2001 of the 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"). Moreover, the CRT notes that Claimant [REDACTED 3] submitted a copy of his birth certificate, identifying his parents as [REDACTED] and [REDACTED] and indicating that they resided in Vienna, which provides independent verification that Claimant [REDACTED 3]'s relatives bore the same family name as the Account Owner and that they resided in Vienna. 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 Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to the Account Owner, as he has asserted in his/her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

As detailed in the December 2004 Award, the CRT has concluded that it is plausible that the account's proceeds were not paid to the Account Owner or his heirs.

Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 3]. First, Claimant [REDACTED 3]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that he is the Account Owner's nephew, and that relationship justifies an Award. Third, the CRT determined in the December 2004 Award that it is plausible that neither the Account Owner nor his heirs received the proceeds of the account.

Amount of the December 2004 Award

As detailed in the December 2004 Award, the Account Owner held one demand deposit 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 upon the investigation conducted by ICEP ("ICEP Investigation"), in 1945 the average value of a demand deposit account was SF 2,140.00.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the December 2004 Award, the adjustment factor was 12.5, and the resulting award amount was SF 26,750.00.

New Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, the Claimants are each entitled to share one-third of the Award amount.

Amount and Division of the Award Amendment

Recognizing that almost two years have passed since the December 2004 Award, and that there is no indication that Claimant [REDACTED 1] and Claimant [REDACTED 2] were aware that another equally entitled person had filed a claim, the CRT determines that Claimant [REDACTED 3] is entitled to a payment from the Settlement Fund equaling his share of the award amount. As noted above, the total 1945 value of the Account Owner's account was SF 2,140.00. Claimant [REDACTED 3] is entitled to one-third of this amount, or SF 713.33. 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 an Award Amendment amount of SF 8,916.67.

Claimant [REDACTED 3] is entitled to the full amount of the Award Amendment.

Scope of the Award Amendment

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 Amendment

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
18 April 2006