

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

To the Estate of Claimant Dr. Tsvi Sadeh¹
also acting on behalf of Menachem Sadeh and Chava Levin

in re Account of Hugo Hirschfeld

Claim Number: 216575/DE²

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of Dr. Tsvi Sadeh (the “Claimant”) to the account of Ludwig Simon Leopold Hirschfeld.³ This Award is to the published account of Hugo Hirschfeld (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).⁴

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

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his paternal uncle, Hugo Hirschfeld, who was born on 29 October 1876 in Offenbach, Germany. The Claimant indicated that his uncle, who was Jewish, resided in Offenbach with his wife, Hedwig Hirschfeld, née Cahn (the Claimant's aunt). In support of his claim, the Claimant submitted a copy of an official letter from the City Archive Offenbach am Main (*StadtArchiv Offenbach am Main*) addressed to the Claimant and dated 25 May 1998, indicating that Hugo Hirschfeld was married to Hedwig Hirschfeld, née Cahn, who was born on 5 January 1891. The document further indicates that Hugo Hirschfeld perished in Theresienstadt on 15 March 1944 and that his wife,

¹ The CRT notes that Dr. Tsvi Sadeh (the “Claimant”) passed away on 10 June 2002. Therefore, this award is to the Claimant’s estate.

² In a separate decision, the CRT awarded the accounts of the Estate of Ludwig Cahn to the Claimant. See *In re Accounts of Estate of Ludwig Cahn* (approved 18 December 2007).

³ The CRT did not locate an account belonging to Ludwig Hirschfeld in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

⁴ The CRT notes that on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi Persecution (the “ICEP List”), Hugo Hirschfeld is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account.

Hedwig Hirschfeld, née Cahn, was deported to Auschwitz and did not return. According to Pages of Testimony submitted to the Yad Vashem Memorial in Israel in 1999 by the Claimant in memory of his uncle and aunt, his uncle was a merchant and his aunt was a housewife.

The Claimant indicated that he was born Heinrich Ernest Hirschfeld on 1 July 1921 in Offenbach. The Claimant is representing his brother and sister, Menachem Sadeh (formerly Franz Julius Hirschfeld) and Chava Levin, née Eva Charlotte Hirschfeld, who are twins and who were born on 27 July 1922 in Offenbach.

Information Available in the Bank's Records

The Bank's records consist of two lists of accounts that were frozen pursuant to the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"); one of these lists was prepared by the Bank and the other by the Swiss Compensation Office (*Schweizerische Verrechnungsstelle*) in the course of the 1945 Freeze. According to these records, the Account Owner was Hugo Hirschfeld, who resided at 113 Frankfurterstrasse in Offenbach, Germany. The records indicate that the Account Owner held one savings/ passbook account, numbered 165154.

These records indicate that the account was frozen in the 1945 Freeze. These records further indicate that the amount in the account as of 17 February 1945 was 386.80 Swiss Francs ("SF"). According to these records, the Swiss Compensation Office unfroze the account on 6 July 1953, at which time the balance of the account was SF 376.00.

The Bank's records do not indicate the ultimate disposition of this account. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with another list of account owners, again showing Hugo Hirschfeld of Offenbach as the owner of account 165154.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's uncle's name and city and country of residence match the published name and city and country of residence of the

Account Owner. In support of his claim, the Claimant submitted an official letter from the City Archive Offenbach am Main, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner. The CRT notes that the Claimant failed to identify the Account Owner's street address. However, given that the date of the Account Owner's residence at that street address is unknown, together with the fact that the Claimant, who was born in 1921, was a child during much of the period before the Second World War, the CRT finds it plausible that the Claimant would not know the Account Owner's street address. Therefore, the CRT concludes that the Claimant's failure to identify the Account Owner's street address does not adversely affect his identification of the Account Owner.

The CRT further notes that a database containing the names of victims of Nazi persecution includes a person named Hugo Hirschfeld, and indicates that his date of birth was 29 October 1876 and residence was Offenbach, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Additionally, the CRT notes that this database includes a Page of Testimony submitted by the Claimant in memory of his uncle in 1999, several years before the February 2001 publication of the Account Owner's name on the list of accounts determined by ICEP to be probably or possibly those of victims of Nazi Persecution (the "ICEP List").

Finally, the CRT notes that there are no other claims to this account.

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 indicated that the Account Owner, who was Jewish, resided in Germany following the Nazi rise to power. The Claimant submitted a copy of an official letter from the City Archive Offenbach am Main, indicating that the Account Owner was deported to Theresienstadt, where he perished on 15 March 1944, and that the Account Owner's wife was deported to Auschwitz, never to be heard from again. As noted above, a person named Hugo Hirschfeld is included in Yad Vashem's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was his uncle. The CRT further notes that the Claimant submitted a Page of Testimony identifying Hugo Hirschfeld as his uncle several years before the Account Owner's name appeared on the ICEP List.

Finally, the CRT notes that the Claimant and the parties he represents all indicated that they were known by the family name Hirschfeld while in Germany. In addition, the Claimant and Menachem Sadeh noted that they changed their family name from Hirschfeld to Sadeh, while Chava Levin listed Hirschfeld as her maiden name.⁵

⁵ The CRT further notes that, although the Claimant's name differs materially from the Account Owner's family name, both names have similar meanings. "Hirschfeld" is a German name whose components can be translated as

There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner perished in Theresienstadt in 1944; that there is no record of the payment of the Account Owner's account to him or his heirs; that the Account Owner's account was frozen in 1945 and continued to exist after the Second World War; that the Account Owner's 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 (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 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 the Claimant and the parties he represents. 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 his uncle, 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 account.

Amount of the Award

In this case, the Account Owner held one savings/passbook account. The records indicate that the value of the account as of 17 February 1945 was SF 386.80. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 15.00, which reflects standardized bank fees charged to the savings/passbook account during 1945. Consequently, the adjusted balance of the account at issue is SF 401.80. According to Article 29 of the Rules, if the amount in a Savings/Passbook Account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 10,375.00.

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

"deer" and "field." In Hebrew, the Claimant's first name "Tsvi" means "deer" and his family name "Sadeh" means "field."

representation. In this case, the Claimant is representing his brother, Menachem Sadeh, and sister, Chava Levin. Accordingly, the Claimant and the represented parties are each entitled to one-third 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 his claim 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
24 September 2008