

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Elias Samuel Hirsch
also acting on behalf of Joel Hirsch

in re Account of Julius Kaufmann

Claim Number: 203364/AZ

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Elias Samuel Hirsch (the “Claimant”) to the account of Fritz Hirsch.¹ This Award is to the published account of Julius Kaufmann (the “Account Owner”) at the [REDACTED] (the “Bank”).

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 claiming accounts belonging to his father, Fritz Hirsch. In telephone conversations with the CRT on 3 February 2003 and 27 March 2003, the Claimant identified the Account Owner as his maternal grandfather, Julius Kaufmann. The Claimant indicated that his grandfather, who was Jewish, owned *Gebrüder Kaufmann*, a successful furniture manufacturing business in Ladenburg, Germany. According to the Claimant, his father, Fritz Hirsch, who was born on 30 October 1888 and was married to Julius Kaufmann’s daughter, Selma Hirsch, née Kaufman, managed the business. The Claimant further indicated that his maternal grandfather died in approximately 1936.

The Claimant indicated that he had six brothers and sisters, who resided in Ladenburg, and that between the years 1935 and 1938, his father deposited money in Basel, Bern, and Zurich in Switzerland for their benefit. The Claimant indicated that that his older brother, Rafael, was deported to Dachau in 1936 and that he and the rest of his family were deported to the Gurs transit camp in France in 1939. According to the Claimant, he and one of his brothers were rescued and taken to Portugal, after which they emigrated to the United States in 1942. Finally, the Claimant indicated that his father perished in a concentration camp, probably Auschwitz, in 1943 and that his mother died in Israel in 1956.

¹ The CRT will treat the claim to this account in a separate decision.

The Claimant indicated that he does not have supporting documents, as he and his family were deported in 1939, with only one suitcase of clothing among them. The Claimant submitted his own passport, issued in 1970, indicating that Eli Samuel Hirsch was born on 20 September 1934 in Germany.

The Claimant indicated that he was born on 20 September 1934 in Ladenburg. The Claimant is representing his brother, Joel Hirsch, who was born on 18 October 1939 in Ladenburg.

The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting his entitlement to a Swiss bank account owned by his parents, Fritz Hirsch and Selma Hirsch, née Kaufman, who resided in Ladenburg.

Information Available in the Bank’s Record

The Bank’s record consists of an account ledger. According to this record, the Account Owner was Julius Kaufmann, who resided in Darmstadt, Germany. The Bank’s record indicates that the Account Owner held a custody account, numbered F1029, which was opened on 20 August 1931, and that the following securities were placed into the account on that date:

- 5% *Mexico Consol. ext. Gold Loan 1889* bonds, with a nominal value of 20.00 Pound Sterling (“£”);
- *United States of Mexico* bonds, with a nominal value of 41.22 United States Dollars (“US \$”);
- 4-3/4% [REDACTED] bonds, with a nominal value of 500.00 Swiss Francs (“SF”);
- 5% [REDACTED] bonds, with a nominal value of SF 1,000.00;
- 4-1/2% *Amsterdam 1926* bonds, with a nominal value of 1,000.00 Dutch Florins (“Hfl”); and
- 7% *Rumanische Gold Stabilisierungs Anl. 1929/59* bonds, with a nominal value of US \$500.00

The Bank’s record further indicates that these bonds were added to the account in 1932:

- 3-1/2% [REDACTED] bonds, with a nominal value of SF 1,000.00;
- 3-3/4% *Stadt Genf 1932* bonds, with a nominal value of SF 500.00; and
- 3-1/2% *Gotthardbahn 1895* bonds, with a nominal value of SF 1,000.00

Moreover, the Bank’s record indicates that one final item was added on 5 February 1935:

- 3-3/4% [REDACTED] bonds, with a nominal value of SF 500.00

The Bank’s record indicates the 4-3/4% [REDACTED] bonds, the 5% [REDACTED] bonds, and the 4-1/2% *Amsterdam 1926* bonds were sold in 1931 and 1932, and the bulk of the remainder of the securities were sold on various dates between 1933 and 1937, for unspecified amounts. According to this record, the account was suspended on 16 February 1945 and closed on 13 November 1953, when it held only the two sets of Mexican bonds. 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”) indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s maternal grandfather’s name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the location of the family business as Ladenburg, Germany, which is approximately 50 kilometers from the Account Owner’s published city of residence. The CRT notes that it is plausible that the Account Owner resided 50 kilometers from the location of his business, particularly as he may not have been involved in its day-to-day management. The CRT further notes that the Claimant indicated that his father (the son-in-law and business partner of the person who is claimed to be the Account Owner), opened one or more bank accounts in Basel, the unpublished Swiss city where the account was held.

The CRT notes that the name Julius Kaufmann 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 “ICEP List”).

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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 stated that the Account Owner was Jewish; that he resided in Nazi Germany until his death in 1936; and that his daughter and her family were deported to concentration camps, where the Account Owner’s son-in-law perished. The CRT notes that a database containing the names of Victims of Nazi Persecution includes information regarding a person named Fritz Hirsch, who was born on 30 or 31 October 1888, was married to Selma Kaufman, resided in Ladenburg, and perished in Maidanek. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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 and documents, demonstrating that the Account Owner was the Claimant’s maternal grandfather. The CRT notes that the Claimant filed his IQ with the Court in 1999, prior

to the publication of the ICEP List in February 2001, indicating that his mother's maiden name was Kaufman and that his family resided in Ladenburg. The CRT further notes that this information is consistent with the information contained in the Yad Vashem records. 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 the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has other surviving heirs apart from the Claimant's brother Joel Hirsch, whom he represents.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was suspended on 16 February 1945 and closed on 13 November 1953.

Given that the Account Owner, who resided in Nazi Germany, died in approximately 1936; that his heirs were imprisoned in concentration camps and that his son-in-law and business partner perished in a concentration camp in 1943; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's heirs would not have been able to obtain information about the Account Owner's 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 and heirs because of the banks' concerns 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. 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 grandfather, and that relationship justifies an Award. Finally, 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 custody account. For purposes of this Award, the CRT assumes that it is plausible that the Account Owner did not receive the proceeds of the securities sold or transferred out of the account after the final item was introduced by the Account Owner in February 1935.² According to the Guidelines for the Valuation of Securities, circulated to the

² The CRT notes 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 in Germany through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks. (See Appendix C, which appears on the CRT II website at www.crt-ii.org.)

CRT by Special Master Helen B. Junz, as a general rule, the CRT values bonds at the higher of market and nominal value, provided that the bonds were not in default.

The following securities are included in the valuation:

- 7% *Rumanische Gold Stabilisierungs Anl. 1929/59* bonds, with a nominal value of US \$500.00, which was equivalent to SF 2,145.00 in 1945;³
- 3-1/2 *Gotthardbahn 1895* bonds, with a nominal value of SF 1,000.00;
- 3-3/4% [REDACTED] bonds, with a nominal value of SF 500.00;
- 3-3/4% *Stadt Genf 1932* bonds, with a nominal value of SF 500.00;
- 5% *Mexico Consol. ext. Gold Loan 1889* bonds, with a nominal value of £20.00, which was equivalent to SF 346.20 in 1945; and
- *United States of Mexico* bonds, with a nominal value of US \$41.22, which was equivalent to SF 176.83 in 1945

The CRT further notes that the Mexican and the Romanian bonds were in default,⁴ and, pursuant to the Guidelines, are to be valued at their market value, which was well below their nominal value. The CRT notes that the Swiss securities were of good quality. The [REDACTED] securities were short/medium term bonds and are properly valued at par value. The market value of the *Gotthardbahn* and the *Stadt Genf* bonds was below par.⁵ Thus, according to the Guidelines, they are valued at their nominal value.

The CRT notes that the combined nominal value of these securities in 1945 was SF 4,668.03.⁶ In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 450.00, which reflects standardized bank fees charged to the account between 1945 and 1953. Consequently, the adjusted balance of the account at issue is SF 5,118.03. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to

³ The CRT uses official exchange rates when making currency conversions.

⁴ For information on the Mexican bonds, see Moody's Manual of Investments, American and Foreign: Government Securities, (New York: Moody's Investors Service, 1940), pp. 1,905 – 1,907. For information on the Romanian bonds, see Moody's Manual of Investments, American and Foreign: Government Securities, (New York: Moody's Investors Service, 1940), p. 1,947.

⁵ For information on the [REDACTED] securities, see Schweizer Börsenhandbuch für 1937, (Zurich, 1937), p. 102. For information on the *Gotthardbahn* bonds, see Moody's Manual of Investments, American and Foreign: Government Securities, (New York: Moody's Investors Service, 1940), p. 1,968. For information on the *Stadt Genf* bonds, see Moody's Manual of Investments, American and Foreign: Government Securities, (New York: Moody's Investors Service, 1940), p. 1,973 and the *Zürcher Kursblatt*.

⁶ The CRT notes that even if the two securities that were sold between 1933 and 1935 were included in the valuation, the total value of the securities would still be below the Article 29 presumptive value of SF 13,000.00 for a custody account, and so their exclusion from valuation does not affect the final award amount. The CRT further notes that although the securities were valued as of 1945, despite the fact that they were sold on various dates between 1935 and 1953, and the currency exchanges were therefore as of 1945, that valuing the securities as of the dates on which they were actually sold still results in a total value that is less than the Article 29 presumptive value, and therefore the use of the 1945 valuation date does not affect the total award amount. The CRT also notes that the combined nominal value of all the securities – including the nominal values of the defaulted bonds – falls well below the value presumption for a custody account as set forth in Article 29 of the Rules. Accordingly, the CRT had no need to obtain the market value for the defaulted bonds.

be SF 13,000.00. 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 162,500.00.

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. In this case, the Claimant is representing his brother Joel Hirsch. Accordingly, the Claimant and represented party Joel Hirsch are each entitled to one-half 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
19 July 2007