

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to the Estate of Claimant [REDACTED 3]¹
also acting on behalf of the Estate of [REDACTED 4],
the Estate of [REDACTED 5], and [REDACTED 6]
represented by [REDACTED]

in re Account of *Simon Hirschland*

Claim Numbers: 211043/RS;² 216306/RS; 221098/RS³

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3], née [REDACTED],

¹ In a separate decision, the CRT awarded the account of *Simon Hirschland* to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) (the “February 2004 Award”). See *In re Account of Simon Hirschland* (approved on 6 February 2004).

In correspondence with the CRT in April 2004, [REDACTED] informed the CRT that Claimant [REDACTED 3] passed away on 1 March 2004, and that represented party [REDACTED 4] passed away on 3 November 2001.

The CRT also notes that the United States Social Security Death Index registry indicates that represented party [REDACTED 5] passed away on 16 September 2007. See <http://ssdi.rootsweb.ancestry.com/>.

² Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 211043 and 211960, which the CRT has determined are duplicate claims. The CRT is treating these two claims under the consolidated Claim Number 211043.

Claimant [REDACTED 1] also submitted two additional claims, which are registered under the Claim Numbers 400265 and 211961.

In a separate decision, the CRT awarded the accounts of Albert Bodenheim to Claimant [REDACTED 1], [REDACTED], [REDACTED] and [REDACTED]. See *in re Accounts of Albert Bodenheim* (approved on 21 September 2005).

In another decision, the CRT treated Claimant [REDACTED 1]’s claim to the account of Walter Hirsch. See *in re Account of Walter Hirsch* (approved on 30 March 2007).

³ Claimant [REDACTED 3] submitted an additional claim to her own account, which is registered under the Claim Number 220700. In a separate decision, the CRT awarded the account of Michael Grunebaum to Claimant [REDACTED 3]. See *in re Accounts of Michael Grunebaum* (approved on 30 September 2003). The CRT treated Claimant [REDACTED 3]’s claims to the accounts of Gabriel Neumann and Hildegard Grünbaum in another separate decision. See *in re Accounts of Gabriel Neumann and Hildegard Grünbaum* (approved on 18 August 2004).

(“Claimant [REDACTED 3]”) (together the “Claimants”) to the unpublished account of *Simon Hirschland* (the “Account Owner”) at the [REDACTED] (the “Bank”).

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

Procedural History

On 6 February 2004, the Court approved an Award to Claimant [REDACTED 3] for a custody account owned by the Account Owner (the “February 2004 Award”). The Bank recently made available to the CRT additional documents that indicate one other account held by this Account Owner. The documents recently received from the Bank do not contain any further information regarding the custody account that was awarded to Claimant [REDACTED 3] in the February 2004 Award. Consequently, the subject of this Award is not the custody account that was awarded in the February 2004 Award; rather, it is a previously-unawarded account that was indicated in the new records received from the Bank.

Information Provided by the Claimants

The Claimants all identified the Account Owner as the German private bank *Simon Hirschland*, which was founded in part by their relative Simon Hirschland, who was Jewish, and who lived in Essen, Germany.

In addition, Claimant [REDACTED 1] submitted a Claim Form identifying Simon Hirschland as the cousin of his grandmother, [REDACTED], née [REDACTED].

Claimant [REDACTED 2] submitted a Claim Form identifying Simon Hirschland as the brother of his great-great-grandfather, [REDACTED], who co-founded the bank *Simon Hirschland* together with Simon Hirschland.

Claimant [REDACTED 3] submitted a Claim Form identifying Simon Hirschland as the great-grandfather of her late husband, [REDACTED].

Claimant [REDACTED 2] indicated that *Simon Hirschland* operated in the German cities Essen, Dortmund, and Düsseldorf, and Claimant [REDACTED 3] indicated that the bank also operated in Hamburg. Claimant [REDACTED 3] further indicated that between 1920 and 1938, *Simon Hirschland* was located at Ballindamm 27 in Hamburg, and at Lindenallee 7-9 in Essen.

Claimant [REDACTED 3] indicated that the four owners of the bank directly prior to its liquidation by the Nazis in 1938 were [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. Claimant [REDACTED 3] explained that her late husband [REDACTED] was the great-grandson of Simon Hirschland; that [REDACTED] was [REDACTED]’s brother; and that [REDACTED] and [REDACTED] were the two grandsons of Simon Hirschland, and the

sons of banker [REDACTED]. Claimant [REDACTED 3] indicated that these four partners in the bank were Jewish.

Claimant [REDACTED 2] and Claimant [REDACTED 3] both indicated that *Simon Hirschland* was aryanized and liquidated by the Nazis in 1938.

Claimant [REDACTED 3] indicated that her husband's mother, [REDACTED], née [REDACTED], was the sister of [REDACTED] and [REDACTED].

Claimant [REDACTED 3] indicated that [REDACTED] was married to [REDACTED], and that the couple had two children, including [REDACTED 6]. Claimant [REDACTED 3] indicated that [REDACTED] died on 14 March 1942 in Scarsdale, New York.

Claimant [REDACTED 3] indicated that [REDACTED] was married to [REDACTED], née [REDACTED], with whom he had three children, including [REDACTED 5], née [REDACTED], who was born on 10 November 1912 in Essen. Claimant [REDACTED 3] further indicated that [REDACTED] died on 2 January 1957 in New York, New York.

Claimant [REDACTED 3] indicated that [REDACTED] was born on 11 August 1905 in Essen and was married to [REDACTED 4], née [REDACTED]. Claimant [REDACTED 3] also stated that [REDACTED] was born on 26 March 1902 in Hamm, Germany, and died on 18 April 1988 in Dobbs Ferry, New York.

In support of his claim, Claimant [REDACTED 1] submitted a detailed family tree with specific information about Simon Hirschland's ancestors.

Claimant [REDACTED 1] indicated that he was born on 27 August 1933 in Frankfurt, Germany.

In support of his claim, Claimant [REDACTED 2] submitted copies of documents, including: (1) his father's birth certificate, indicating that [REDACTED] was born on 16 February 1907 in Hamburg, Germany, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) two decisions issued by the French Ministry of Veterans and War Victims, indicating that [REDACTED] and [REDACTED] were deported to Auschwitz in October 1943, where they perished; (3) a detailed family tree, indicating that Simon Hirschland, who was the co-founder of the bank, had a son named [REDACTED], who had two sons, [REDACTED] and [REDACTED]; and (4) his own birth certificate, indicating that [REDACTED 2] was born on 21 August 1936 in Paris, France, and that his parents were [REDACTED] and [REDACTED], née [REDACTED].

Claimant [REDACTED 2] indicated that he was born on 21 August 1936 in Paris, France.

In support of her claim, Claimant [REDACTED 3] submitted copies of documents, including: (1) her husband's cousin's birth certificate, indicating that [REDACTED] was born on 13 March 1925, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) an excerpt from the records of the district court in Hamburg, certifying that [REDACTED 3] was married to [REDACTED]; (3) an article from a corporate history journal titled *Tradition*, which

is more thoroughly described below; (4) a letter from the Nazi authorities to [REDACTED], dated 28 July 1938, informing the addressee that the pending liquidation of the bank *Simon Hirschland* would be supervised by the Municipal Business Advisor in Essen, and that assets belonging to the bank were to be transferred to a number of listed banks in Germany, and that the Reich Finance Minister (*Reichswirtschaftminister*) had given his approval for this procedure; (5) her own birth certificate, indicating that [REDACTED 3] was born on 21 October 1910 and that her parents were [REDACTED] and [REDACTED], née [REDACTED]; and (6) [REDACTED 5]'s birth certificate, indicating that [REDACTED 5] was the daughter of the banker [REDACTED], and was born in Essen on 14 November 1912.

Claimant [REDACTED 3] indicated that she was born on 21 October 1910 in Cottbus, Germany. Claimant [REDACTED 3] is representing the following individuals: [REDACTED]'s widow, [REDACTED 4], who was born on 28 April 1906 in Düsseldorf; [REDACTED]'s son, [REDACTED 6], who was born on 13 March 1925 in Essen-Werden, Germany; and [REDACTED]'s daughter, [REDACTED 5], née [REDACTED], who was born on 10 November 1912 in Essen.

In correspondence with the CRT in April 2004, [REDACTED] informed the CRT that Claimant [REDACTED 3] passed away on 1 March 2004, and that represented party [REDACTED 4] passed away on 3 November 2001. The CRT also notes that the United States Social Security Death Index registry indicates that represented party [REDACTED 5] passed away on 16 September 2007.

Corporate Journal information regarding Account Owner *Simon Hirschland*

As indicated above, Claimant [REDACTED 3] submitted an extract from the March 1957 issue of *Tradition: Zeitschrift für Firmen-Geschichte und Unternehmer Biographie*. The extracted article, written by Wilhelm Wisskirchen, relates to the bank *Burkhardt & Co*. The article indicates that *Burkhardt & Co*. was formally established in October 1938 as a vehicle to assume the assets and business of the bank *Simon Hirschland*, which at that time was in liquidation.

The article further indicates that *Simon Hirschland* was established in 1841 in Essen by Simon Hirschland, who died in 1885. Simon Hirschland's son, [REDACTED], became an owner of the bank in 1874, and remained in that position until 1912, when he died. [REDACTED]'s sons, [REDACTED] and [REDACTED], became co-owners of the bank in 1908 and 1912, respectively. The article also states that [REDACTED] and [REDACTED]'s nephews, the brothers [REDACTED] and [REDACTED], became partners of the bank in 1936.

Finally, the article indicates that *Simon Hirschland* was liquidated in October 1938, and its business assumed by *Burkhardt & Co*.

Information Available in the Bank's Records

The documents recently received from the Bank indicate the existence of a custody account

numbered 14554. These documents contain a custody account identification card (“*Leitkarte*”) and custody account portfolio holding cards (“*Depotvalorenkarten*”) for each security held within custody account 14554. According to these records, the Account Owner was, prior to 29 October 1938, the bank *Simon Hirschland*, with a correspondence address in Essen. The Bank’s records further indicate that on 29 October 1938, ownership of account 14554 was transferred to *Burkhardt & Co.*, Lindenallee 7-9, Essen.

The records also indicate that account 14454 was closed on 7 November 1939.

These documents indicate that at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- 3 *Internationale Gesellschaft für Chemische Unternehmungen A.G., Basel (I.G. Chemie)* common shares, each with a face value of 500.00 Swiss Francs (“SF”) with 50% paid in (*einbezahlt*), which were transferred out of the account on 4 November 1949;
- 4% *Schuldverschreibungen der Konversionskasse für deutsche Auslandsschulden Serie IA* bonds with a face value of SF 1,200.00, which were transferred to the *Verrechnungsstelle Zürich* on 25 February 1936; and
- 4% *Schuldverschreibungen der Konversionskasse für deutsche Auslandsschulden Serie I Teilgutscheine* bonds with a face value of SF 81.25, which were transferred to the *Verrechnungsstelle Zürich* on 25 February 1936.

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.

The Claimants’ Identification of the Account Owner

Claimant [REDACTED 2], Claimant [REDACTED 1], and Claimant [REDACTED 3] have plausibly identified the Account Owner. The Claimants all indicated that the Account Owner was a bank located in Essen, which matches unpublished information about the Account Owner contained in the Bank’s records, and the documents submitted by Claimant [REDACTED 3] indicate that the bank *Simon Hirschland* was acquired by *Burkhardt & Co.*, which also matches unpublished information contained in the Bank’s records.

In support of his claim, Claimant [REDACTED 2] submitted documents, including a detailed family tree, and in support of her claim, Claimant [REDACTED 3] submitted documents, including an extract from the journal *Tradition*; both of these documents provide independent verification that the bank that is claimed to be the Account Owner had the same name and was

located in the same town recorded in the Bank's records as the name and principal city of operation of the Account Owner.

The CRT notes that there are no other claims to this account.

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. Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] stated that the Account Owner was a company whose owners were Jewish. Claimant [REDACTED 3] submitted documents, including the extract from the journal *Tradition*, which indicate that *Simon Hirschland* was liquidated in October 1938, and a July 1938 letter from Nazi authorities informing [REDACTED] that the liquidation of bank *Simon Hirschland* was to be supervised by the Municipal Business Advisor in Essen, providing independent verification that *Simon Hirschland* was liquidated and aryanized by the Nazis. Further, Claimant [REDACTED 3] stated that the owners of the Account Owner in 1938, Dr. [REDACTED], [REDACTED], [REDACTED], and [REDACTED], were all Jewish and lived in Nazi-controlled Germany.

The Claimants' Relationships to the Account Owner

As indicated above, the extract from the journal *Tradition* submitted by Claimant [REDACTED 3] indicates that in early 1938, the four owners and partners of the Account Owner *Simon Hirschland* were Dr. [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

Claimant [REDACTED 3] has plausibly demonstrated that she and the parties she represents are each related to the four early-1938 owners of the Account Owner by submitting specific information and documents, demonstrating that: Claimant [REDACTED 3] was the wife of [REDACTED]; [REDACTED 5] was the daughter of [REDACTED]; [REDACTED 4] was the wife of [REDACTED]; and [REDACTED 6] is the son of Dr. [REDACTED]. These documents include [REDACTED]'s birth certificate, indicating that his father was [REDACTED], and that he was born in Essen; an excerpt from the Hamburg district court records, indicating that [REDACTED 3] was married to [REDACTED]; and [REDACTED 5]'s birth certificate, indicating that [REDACTED 5] was the daughter of banker [REDACTED], and that she was born in Essen.

The CRT further notes that the Claimants identified significant amounts of unpublished information about the Account Owner as contained in the Bank's records.

The Issue of Who Received the Proceeds

The Bank's records indicate that ownership of the account was transferred from *Simon Hirschland* to *Burkhardt & Co.* on 29 October 1938, and that the account was closed on 7 November 1939.

Given that the information submitted by the Claimants, combined with the information in the Bank's records, indicate that the Account Owner was aryanized and its assets assumed by *Burkhardt & Co.* in October 1938; that ownership of the account was transferred to *Burkhardt & Co.* on 29 October 1938; that the account was closed on 7 November 1939; that there is no record of the payment of the account to the four early-1938 owners of *Simon Hirschland*; and given the application of Presumptions (a), (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 1938 owners of *Simon Hirschland* 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.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 3] and represented parties [REDACTED 4], [REDACTED 5], and [REDACTED 6]. 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 she and the parties she represents are the heirs of the owners and partners of the Account Owner, and those relationships justify an Award. Third, the CRT has determined that neither the early-1938 owners of the Account Owner nor their heirs received the proceeds of the claimed account.

Further, the CRT notes that Claimant [REDACTED 3] and the parties that she represents, as the heirs of the early-1938 owners of the Account Owner, have a better entitlement to the account than Claimant [REDACTED 1] and Claimant [REDACTED 2], who have not demonstrated that they are the heirs of any of the early-1938 owners of the Account Owner.

Amount of the Award

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the face value of bonds not in default shall be awarded if the market value was below the face value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. The market value of bonds shall be awarded if that value was above the face value on the date the account owner is deemed to have lost control over the account. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owner held a custody account with the following securities:

- 3 *Internationale Gesellschaft für Chemische Unternehmungen A.G., Basel (I.G. Chemie)* common shares, each with a face value of 500.00 Swiss Francs ("SF") with 50% paid in (*einbezahlt*). The CRT was unable to obtain market information for these securities. Therefore, they shall be valued at their total face value on 4 November 1949 of SF 1,500.00;

- 4% *Schuldverschreibungen der Konversionskasse für deutsche Auslandsschulden Serie IA* bonds with a face value of SF 1,200.00. These bonds were in default, and were trading at 30% on 25 February 1936. Therefore, they shall be value at their total market value of SF 360.00;⁴ and
- 4% *Schuldverschreibungen der Konversionskasse für deutsche Auslandsschulden Serie I Teilgutscheine* bonds with a face value of SF 81.25. The CRT was unable to obtain market information for these securities. Therefore, they shall be valued at their total face value on 25 February 1936 of SF 81.25.

Therefore, the Bank's records indicate that the total value of custody account 14554 was SF 1,941.25.

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 be 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(3) of the Rules, if the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.), the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity.

In this case, the CRT makes its determination regarding the ownership of the Account Owner bank prior to its aryanization in 1938 based on the best information available to it. The CRT notes that the information provided in the extract from the corporate history journal *Tradition*, a copy of which was provided to the CRT by Claimant [REDACTED 3], provides credible information as to the pre-aryanization ownership of the Account Owner. In this case, Claimant [REDACTED 3] and the relatives Claimant [REDACTED 3] represents are the heirs of the Account Owner's early 1938 owners and partners: [REDACTED], [REDACTED], [REDACTED], and Dr. [REDACTED]. As noted above, Claimant [REDACTED 3] was the wife of [REDACTED]; [REDACTED 5] was the daughter of [REDACTED]; [REDACTED 4] was the wife of [REDACTED]; and [REDACTED 6] is the son of Dr.[REDACTED].

Claimant [REDACTED 2] has identified the Account Owner, but he has not provided documented information showing that his direct relative [REDACTED] was an owner of the bank *Simon Hirschland* at the time it was liquidated. Claimant [REDACTED 1] is a descendant of the grandparents of the individual named Simon Hirschland, who, by the time the Account Owner was aryanized, was deceased. Accordingly, the Estate of Claimant [REDACTED 3], and represented parties the Estate of [REDACTED 4], the Estate of [REDACTED 5], and [REDACTED 6] are each entitled to one-quarter of the total award amount.

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1935.

As noted above, Claimant [REDACTED 2] and Claimant [REDACTED 1] are not entitled to share in the Award, as their closest relatives were not owners of the Account Owner directly prior to its aryazation.

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
8 October 2008