

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Evelyne Lang
represented by Lynn Blank

in re Account of *D. G. Fischel Söhne*

Claim Number: 210991/NP

This Certified Denial is based upon the claim of Evelyne Lang, née Hirsch, (the “Claimant”) to the published account of *D. G. Fischel Söhne* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).^{1, 2}

All denials 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 *D. G. Fischel Söhne*, a bentwood furniture factory owned by her father, Richard Hirsch, who was born on 9 March 1903 in Vienna, Austria, and was married to Erica Hirsch, née Bettelheim, in 1933 in Vienna. The Claimant indicated that the company was located on Tuchlauben in Vienna. According to the Claimant, her father, who was Jewish, resided at 1 Rue Louis Murat in Paris, France, from 1933 until his death in an airplane crash in 1938 in Zurich, Switzerland. In a telephone conversation with the CRT on 25 September 2002, the Claimant stated that all of her family’s property was confiscated by the Nazi authorities during the Second World War. The Claimant further stated that she went into hiding with her maternal grandmother in France during the War, and that her mother died on 2 November 1946 in Paris.

¹ The CRT notes that, on the February 2001 published 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”), D. G. Fischer is indicated as an individual account owner. Upon careful review, the CRT has concluded that the Bank’s records evidence that the account owner was a business and that its name was *D. G. Fischel Söhne*.

² In this claim, the Claimant also claimed the account of Richard Hirsch. In a separate decision, the CRT awarded the account of Richard Hirsch to the Claimant. See *In re Account of Richard Hirsch* (approved on 5 September 2002). In addition, in separate decisions, the CRT awarded the accounts of Elisabeth Hirsch and Alice Stern to the Claimant. See *In re Account of Elisabeth Hirsch* (approved on 8 April 2004) and *In re Accounts of Alice Stern* (approved on 23 February 2006). Finally, in 2005, the Claimant claimed the account of Ernst Hirsch. The CRT will treat this claim in a separate determination.

The Claimant submitted her father's birth certificate, indicating that Richard Hirsch was born in Vienna on 9 March 1903 to Martha and Ernst Hirsch; her mother's birth certificate, indicating that Erica Ellinor Bettelheim was born in Vienna on 26 July 1912; the Claimant's own birth certificate, indicating that Evelyne Monique Hirsch's parents were Erica and Richard Hirsch; and a copy of a private bill from the United States Senate regarding the Claimant's immigration to the United States, dated 25 February 1952, indicating that Richard Hirsch was killed in an airplane crash in 1938, that his wife was imprisoned at Drancy near Paris and died soon after her liberation in 1946, and that their daughter, Evelyne Hirsch, was formally adopted by her paternal grandmother, Martha Hirsch, in 1947 and renamed by court action Evelyn Lang-Hirsch.

In addition, the Claimant submitted a reprint of the 1915 catalog of *D. G. Fischel Söhne*, indicating that the company was bought in 1897 by Ernst Hirsch and co-owned by the brothers Ernst and Fritz Hirsch after the First World War. The Claimant further submitted a settlement agreement signed by Erica Hirsch, Fritz Hirsch, Herbert Zucker, and Martha Hirsch, widow and heir of Ernst Hirsch, dated 12 November 1938, indicating that Erica Hirsch and Evelyn Hirsch were the sole heirs of Richard Hirsch's shares in the *D. G. Fischel Soehne* partnership, located at Tuchlauben 11 in Vienna, and in Primo Bentwood Furniture Co. Ltd., a public company located at 139 Fonthill Road in London, England, and that both companies were being represented by Fritz Hirsch and Herbert Zucker. The settlement agreement further indicated that Erica Hirsch, in her own name and as legal guardian of the minor Evelyn Hirsch, agreed to a settlement payment and thus relinquished all claims to ownership in the named companies. The agreement also indicated that *Universale A.G.*, a company located at Boulevard Royal 2d in Luxembourg, was in liquidation and that all shareholders, including Richard Hirsch, had already received their share of the remaining assets of that company.

The Claimant indicated that she was born on 26 January 1935 in Vienna.

Information Available in the Bank's Records

The Bank's records submitted 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") consist of a customer card and a printout from the Bank's database. According to these records, the Account Owner was *D. G. Fischel Söhne*, a company located at Tuchlauben 11 in Vienna, Austria. The Bank's records indicate that the Account Owner held a safe deposit box, numbered 823. The Bank's records further indicate that the safe deposit box was closed on 12 March 1938. The Bank's records do not indicate the value of the contents of the safe deposit box.

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 additional documents. These documents consist of three safe deposit box registry cards, two power of attorney forms, a contract for the lease of a safe deposit box, an affidavit, and a signature sample card. All three safe deposit box registry cards refer to a safe deposit box, numbered 823, and indicate that originally this safe deposit box was rented for the Account

Owner on 12 February 1930. A power of attorney form, dated 12 February 1930, indicates that all shareholders of the Account Owner whose signatures were on record were granted individual power of attorney over the safe deposit box. An additional power of attorney form, dated 13 August 1932, granted power of attorney to Martin Hans Hirsch, who resided at Universitätsstrasse 9 in Zurich, Switzerland.

According to these records, safe deposit box 823 was closed by Herbert Zucker on 12 March 1938 and reopened on that same date by Susanne Hirsch, Herbert Zucker, and Richard Hirsch, in the name of *Universale A.G.*, a company located in Luxembourg. The Bank's records further indicate that on 4 May 1938, safe deposit box 823 was closed by Susanne Hirsch, and reopened on that same date by Susanne Hirsch and Herbert Zucker, in the name of *Primo Bentwood Furniture Co. Ltd.*, a company located at 149 Fonthill Road in London, England, the United Kingdom. The Bank's records indicate that Richard Hirsch, residing at 1 rue Louis Murat in Paris, France, Herbert Zucker of Zug, Switzerland, Susanne Hirsch of Zurich, and Frederic and Martin Hirsch of London acted as the representatives of Primo Bentwood Furniture Co. Ltd. The Bank's records further contain the signatures of Richard Hirsch, Herbert Zucker, Susanne Hirsch, Frederic Hirsch, and Martin Hirsch, and indicate that they were all individually authorized signatories for Primo Bentwood Furniture Co. Ltd. Finally, the Bank's records indicate that safe deposit box 823 was closed on 3 January 1939 by Herbert Zucker. The value of the contents of the safe deposit box is not recorded.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Fritz Hirsch, numbered 41229. These records indicate that Fritz Hirsch was born on 16 October 1883 in Vienna, Austria, that he was married to Gertrud Hirsch, née Weishut, and that he resided at Fonthill Road 139 in London, England. According to these records, Fritz Hirsch owned shares of two apartment buildings in Vienna, valued at 87,186.64 Reichsmark ("RM"), securities valued at RM 148,554.00, and bank accounts held at Austrian banks valued at RM 13,316.21. In addition, the records indicate that Fritz Hirsch owned a share in the company *D. G. Fischel Söhne*, valued at RM 299,627.20. The records further indicate that the company *D. G. Fischel Söhne* was located in Vienna, had affiliates in Paris, France, the Hague, Netherlands, Prague, Czechoslovakia, and Slatina Timisului, Romania, and was valued at RM 1,231,217.44 as of 23 April 1938. Finally, the records indicate that Fritz Hirsch owned shares of the company Primo Bentwood Furniture Co, Inc., which was located in London, England. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant identified the Account Owner's name and status as a legal entity, even though its name and status were incorrectly published on the February 2001 published 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"). The Claimant further identified the Account Owner's address, its type of business, and its affiliates, which match unpublished information about the Account Owner contained in the Bank's records. In addition, the Claimant's father's name and city and country of residence match the unpublished name and city and country of residence of Richard Hirsch, who is listed in the Bank's records as a representative of the Account Owner.

In support of her claim, the Claimant submitted documents, including a settlement agreement dated 12 November 1938 with regard to shares in the companies *D. G. Fischel Soehne* in Vienna, Austria, *Primo Bentwood Furniture Co. Ltd.* in London, England, and *Universale A.G.* in Luxemburg, providing independent verification that the company that is claimed to be the Account Owner and its affiliates had the same names and were located in the same cities recorded in the Bank's records as the names and locations of the Account Owner and its affiliates. 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 owners of the Account Owner were Victims of Nazi Persecution. The Claimant stated that the Hirsch family was Jewish, that all of her family's property was confiscated by Nazi authorities, and that she herself survived only by going into hiding in France during the Second World War. The Claimant submitted a United States Senate Report, dated 25 February 1952, indicating that Richard Hirsch's wife, Erica Hirsch, was imprisoned at Drancy, France.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the owners of the Account Owner by submitting specific information and documents, demonstrating that the Claimant's grandfather, Ernst Hirsch, and her father, Richard Hirsch, were shareholders in the Account Owner and its affiliates. These documents include a reprint of the 1915 *D. G. Fischel Söhne* catalog, indicating that Ernst Hirsch had bought the company in 1897 and continued its proprietorship with his brother Fritz Hirsch after the First World War; the birth certificate of Richard Hirsch, indicating that he was born to Martha and Ernst Hirsch; the Claimant's birth certificate, indicating that she was born to Erica and Richard Hirsch; a settlement agreement, dated 12 November 1938, indicating that the Claimant was an heir to the shares of Richard Hirsch in the company *D. G. Fischel Söhne* and that Martha Hirsch was the primary heir to the shares of Ernst Hirsch; and a United States Senate Report, dated 25 February 1952, indicating that the Claimant was adopted by Martha Hirsch in 1947.

The Issue of Who Received the Proceeds

The Bank's records indicate that the safe deposit box was closed and reopened twice by the Account Owner's shareholders and representatives, Richard Hirsch, Susanne Hirsch, and Herbert Zucker, as accounts of the Account Owner's affiliates. The Bank's records further indicate that the account was ultimately closed on 3 January 1939 by Herbert Zucker. Therefore, the CRT concludes that the legitimate owners of the Account Owner received the proceeds of the claimed account.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant may appeal this Denial to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision. Appeals should be delivered to the following address: Office of Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001 USA.

The Claimant should send appeals in writing to the above address and should include all reasons for the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

Scope of the Denial

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she 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 Denial

The CRT certifies this Denial for approval by the Court and by the Special Masters.

Claims Resolution Tribunal
20 October 2006