

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to the Estate of Claimant [REDACTED]<sup>1</sup>

**in re Account of Josef Hirsberg**

Claim Numbers: 784923/GO/KG; 784926/GO/KG<sup>2, 3</sup>

This Certified Denial is based upon the claims of [REDACTED] (the “Claimant”) to the account of Joseph Hirshberg. This Denial is to the published account of Josef Hirsberg (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

### **Information Provided by the Claimant**

The Claimant submitted two Initial Questionnaires (“IQs”) with the Court in 1999 identifying the owner of the Account Owner as his cousin, Joseph Hirshberg, who was born in 1915. The Claimant indicated that his cousin, who was Jewish, was a bank owner and that he resided at Piotrowska Street 24 in Lodz, Poland. In one of his IQs, the Claimant listed “Joseph Hirshberg” as the name of the bank or custodian held by another relative. According to the Claimant, his cousin perished in Auschwitz in 1944.

The Claimant indicated that he was born on 25 October 1915.

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<sup>1</sup> The CRT notes that [REDACTED] (the “Claimant”) died in 2006.

<sup>2</sup> The Claimant did not submit Claim Forms to the CRT. However, in 1999 he submitted two Initial Questionnaire (“IQs”), numbered ENG-0583181 and ENG-0583184, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers 784923 and 784926, respectively.

<sup>3</sup> The Claimant submitted eight additional IQs, numbered ENG-0583180, ENG-0369170, ENG-0583182, ENG-0583183, ENG-0583189, ENG-0583190, ENG-0583191 and ENG-0718151, to the Court in the United States. The IQs were forwarded to the CRT and, in accordance with the procedure described in the previous footnote, have been assigned claim numbers 705002, 779469, 784924, 784925, 784927, 784928, 784929 and 788398, respectively. The CRT treated these claims in separate determinations, dated 10 March 2006, 9 March 2006, 28 March 2007, 16 May 2007, 16 May 2007, 28 March 2007, 16 May 2007 and 6 April 2007, respectively.

## **Information Available in the Bank's Records**

The Bank's records consist of a customer card and correspondence. According to these records, the Account Owner was Jozef Hirszberg *Dom Bankowy* (a Bank), which was located at Piotrkowska Street 24 in Lodz, Poland. The Bank's records indicate that the Account Owner held a custody account, identified by the letters "P.D.," which was closed on 9 February 1934. The amount in the account on the date of its closure is unknown.

The Bank's records also contain a letter from Jozef Hirszberg *Spadkobiercy* (Heirs) *Dom Bankowy*, dated 17 October 1940, which indicates that persons purporting to be the heirs of the Account Owner asked the Bank to provide them with the balances of all bank accounts held by the Account Owner at the Bank.<sup>4</sup> These records further contain the Bank's response to that inquiry, dated 30 October 1940, to which a general information circular was attached. That circular indicates that the Bank frequently received inquiries about accounts from unauthorized parties and that it could only respond to such inquires upon the presentation of identification or testamentary documents. There is no evidence in the Bank's records that the purported heirs ever provided such documentation.

## **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 two claims of the Claimant in one proceeding.

### Identification of the Account Owner

The Claimant's cousin's name and city and country of residence match the published name and city and country of residence of the Account Owner.<sup>5</sup> The Claimant identified the Account Owner's street address, which matches unpublished information about the Account Owner contained in the Bank's records. In addition, the CRT notes that the Claimant identified the owner of the Account Owner as a bank owner, which is consistent with the fact that the Account Owner was a bank, which also matches unpublished information about the Account Owner contained in the Bank's records.

The CRT notes that the Claimant identified the Account Owner as an individual whereas the Bank's records indicate that the Account Owner was a bank. However, as noted above, the CRT notes that the Claimant identified his cousin as a bank owner and that he listed "Joseph Hirshberg" as the bank or custodian of another relative's account. The CRT further notes that

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<sup>4</sup> The German text states: "Zu Abstimmungszwecken bitten wir Sie höfl., uns den Saldo des bei Ihnen geführten Kontos aufzugeben."

<sup>5</sup> The CRT notes that the Claimant indicated that his cousin's name was Joseph Hirshberg, whereas the Bank's records identify the Account Owner as Josef Hirszberg. The CRT notes that "Joseph" and "Josef" and "Hirshberg" and "Hirszberg" are regional variations of the same names and therefore determines that this discrepancy does not adversely affect the Claimant's identification of the Account Owner.

the Claimant's relative and the Account Owner had the same name and resided or were located at the same address. Accordingly, the CRT concludes that it is plausible that the Claimant's cousin was the owner of the Account Owner.

The CRT further notes that the Claimant indicated that his cousin perished in Auschwitz in 1944 whereas the Bank's records indicate that that persons describing themselves as the heirs of the Account Owner contacted the Bank in 1940 for information about any accounts held by the Account Owner at the Bank. However, the CRT notes that there is no evidence to indicate that the owner of the Account Owner was deceased at this time or that the authors of the relevant letter were, in fact, his heirs. For this reason and, having regard to the pre-publication and unpublished information provided by the Claimant, the CRT concludes that this apparent discrepancy does not adversely affect the plausibility of the Claimant's identification of the Account Owner.

The CRT notes that the name Josef Hirszberg appears only once 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 CRT notes that the Claimant filed IQs with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Joseph Hirshberg, prior to the publication of the ICEP List. This indicates that the Claimant has based his claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative or a bank owned by his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that there are no other claims to this account. Taking all these factors into account, he 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 owner of the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the owner of the Account Owner was Jewish, that he resided in Nazi-occupied Poland and that he perished in Auschwitz in 1944.

#### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the owner of the Account Owner by submitting specific biographical information, demonstrating that the owner of the Account Owner was the Claimant's cousin.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; that the Claimant filed IQs with the Court in 1999, identifying the relationship between the owner of the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the owner of 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 owner of the Account Owner, as he has asserted in his IQs.

There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 9 February 1934. The CRT notes that Poland was not occupied by Nazi Germany until 1 September 1939. Therefore, the CRT concludes that the owner of the Account Owner was able to access the account and concludes that the owner of the Account Owner closed this account and received the proceeds himself.

#### Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

#### **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 his claims 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 Denial**

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

Claims Resolution Tribunal  
20 December 2007