

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹
and Claimant [REDACTED 2]²

in re Account of Abe Neumann, Hersch Neumann and Perl Neumann

Claim Numbers: 600009/KG; 781975/KG^{3, 4, 5}

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) (together the “Claimants”) to the account of Hersch Neumann. This Award is to the unpublished account of Hersch Neumann (“Account Owner Hersch Neumann”), Abe Neumann (“Account Owner Abe

¹ The CRT notes that, according to her death certificate submitted by her son, Claimant [REDACTED 2], and forwarded to the CRT by the HCPO, Claimant [REDACTED 1] passed away on 29 May 2004.

² The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2] gave their surname as “[REDACTED],” whereas the documents submitted by the Claimants, and records obtained from both the Viennese City Archive and the Austrian State Archive indicate that the Account Owners’ surname was spelled “[REDACTED].” Given that the documents referred to above indicate that the spelling of the Claimants’ surname was also “[REDACTED],” the CRT concludes that “[REDACTED]” was the original spelling of the family surname, which later changed to “[REDACTED].” In this Award, the spelling “[REDACTED]” is used in reference to the Account Owners and when referring to documents indicating that spelling, and the spelling “[REDACTED]” is used when referring to the two Claimants.

³ Claimant [REDACTED 1] submitted a claim, numbered B-01921, on 9 July 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600009.

⁴ Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG 0467 141, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 781975.

⁵ Claimant [REDACTED 2] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 789009. While Claimant [REDACTED 1] did not file a separate claim form, she also claimed the account of [REDACTED]. The CRT did not locate an account belonging to the Claimants’ relative, [REDACTED], 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”). The Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by the Claimants or upon information from other sources.

Neumann”) and Perl Neumann (“Account Owner Perl Neumann”) at the Zurich branch of 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 relatives of the claimants other than the account owners, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying Account Owner Hersch Neumann as her late husband, Hersch Hermann Neumann, who was born on 23 December 1906 in Wolice, Poland, and was married to Claimant [REDACTED 1] on 15 January 1933. Claimant [REDACTED 1] indicated that her husband, who was Jewish, was a foreign exchange trader and menswear manufacturer, who had a business by the name of *L. Neumann & Sons*, which was located at Rudolfsplatz 5, in Vienna I, Austria. Claimant [REDACTED 1] indicated that, until 1939, her husband resided at Negerlegasse 10, in Vienna II. According to Claimant [REDACTED 1], her husband fled Austria for Switzerland in the summer of 1939, and for two months remained in Zurich, where he had a friend and business acquaintance by the name of Reiss and an attorney by the name of Eichel. Claimant [REDACTED 1] indicated that, in the fall of 1939, her husband left for Milan, Italy, where he remained throughout 1940. Claimant [REDACTED 1] indicated that her husband survived the Second World War, and that he passed away on 3 May 1987 in New York, New York, the United States.

Claimant [REDACTED 1] also identified Account Owner Abe Neumann as Abe (Adolph or Avraham) Neumann, Hersch Neumann’s brother, and indicated that Abe Neumann regularly traveled to Zurich to visit the Bank.

Claimant [REDACTED 1] submitted her marriage certificate, indicating that she was married to Tzvi (Hersch) Neumann;⁶ her son’s birth certificate, indicating that her son’s name was [REDACTED 2] and that his parents were [REDACTED 1] and Hersch Hermann Neumann; and a record from the Austrian State Archive relating to Hersch Neumann, which is further described below. In addition, Claimant [REDACTED 1] submitted a letter from the Bank to the HCPO, dated 7 December 2000, relating to an account held by Hersch, Abe and Perl Neumann. That letter, and a bank document attached thereto, is further described below. Claimant [REDACTED 1] indicated that she was born on 1 October 1907 in Narayov, Poland.

⁶ The CRT notes that “Tzvi” is the Hebrew equivalent of the name “Hersch.” In addition, the marriage certificate states that Claimant [REDACTED 1]’s maiden name was [REDACTED]. The CRT notes that [REDACTED] is Claimant [REDACTED 1]’s middle name and determines that it is plausible that she used this name in her Hebrew marriage certificate.

Claimant [REDACTED 2]

Claimant [REDACTED 2], who is Claimant [REDACTED 1]'s son, submitted an Initial Questionnaire ("IQ"), identifying Account Owner Hersch Neumann as his father, Hersch Neuman, who was born on 23 December 1906. Claimant [REDACTED 2] indicated that his father, who was Jewish, lived at Negerle Gasse 2 in Vienna until 1939, and that he owned the business *L. Neumann and Sons*. Claimant [REDACTED 2] further indicated that in 1939 his father fled to Switzerland, from where he was deported, whereupon he gained entry to Italy, where he lived in Milan. According to Claimant [REDACTED 2], in August 1940 his father traveled to Lisbon, Portugal, and then later to New York, where he died on 3 May 1987. Claimant [REDACTED 2] stated that his father told him that he had frequent dealings with the Bank in Switzerland.

Claimant [REDACTED 2] submitted his father's passport, issued by the German Reich, confirming his father's name and date of birth, indicating that he resided in Vienna, and containing a copy of his father's signature. The passport contains a visa, dated 21 August 1939, for an 8-day non-extendable stay in Switzerland valid until 31 August 1939. In addition, Claimant [REDACTED 2] submitted a letter from the Bank, dated 8 April 1953, to Hersch Hermann Neumann, which is further described below. Claimant [REDACTED 2] indicated that he was born on 18 August 1942 in New York.

Information Provided by the HCPO

A document from the Viennese State Archive ("*Wiener Stadt- und Landesarchiv*") containing information about Hersch and Abe Neumann was forwarded to the CRT by the HCPO. According to this document, Abe (also known as Adolf) Neumann, who was Jewish, was born in Husyatin, Poland on 12 April 1909, and was an owner of the company, *L. Neumann's Söhne, Herren- und Knabenkleider* ("men's and boys' wear"), located at Rudolfplatz 5/2/11, in Vienna I. The document states that Abe Neumann was married to Perl Neumann, née Strizower, and that they resided at Rotensterngasse 15/18 in Vienna II between 16 August 1935 and 13 October 1938. The document contains the notation "*abgemeldet: Schweiz*" ("deregistered: Switzerland"), which indicates that Abe and Perl Neumann departed Austria for Switzerland in October 1938.

According to the document obtained from the Viennese City Archive, Hersz Neumann,⁷ who was Jewish, was born on 23 December 1906, and was also an owner of the company, *L. Neumann's Söhne, Herren- und Knabenkleider*, at the address noted above. The document states that Hersz Neumann was married to [REDACTED 1], née [REDACTED], and that the couple and their children lived at Negerlegasse 10/3/18 in Vienna II from 27 January 1933 to 15 October 1939. The document again contains the notation "*abgemeldet: Schweiz*" ("deregistered: Switzerland"), which indicates that Hersz Neumann and his family departed Austria for Switzerland in October 1939.

⁷ The CRT notes that "Hersz" is an alternative spelling for the name "Hersch."

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Hersch Neumann, Abe Neumann or Perl Neumann. As noted above, the relevant documents were submitted directly by the Claimants, or were obtained from the Bank by the HCPO on Claimant [REDACTED 1]'s behalf, and were forwarded to the CRT.

As noted above, Claimant [REDACTED 1] submitted a letter from the Bank to the HCPO, dated 7 December 2000. In that letter, the Bank stated that a search of its archives revealed that an account, numbered 3551, was held jointly by Hersch, Abe and Perl Neumann at the Zurich branch of the Bank. The Bank attached a bank document to its letter. This document consists of a numbered account card. According to this record, Account Owner Abe Neumann was Abe Neumann, Account Owner Hersch Neumann was Hersch Neumann, and Account Owner Perl Neumann was *Frau* (Mrs.) Perl Neumann. The record indicates that the Account Owners resided in Vienna, Austria. The record further indicates that the Account Owners held one numbered account, the type of which is not indicated, with a designation 3551. The record bears the stamp "*ausgegangen Kontr. Nov. 1949,*" which indicates that the account was closed on an unspecified date prior to November 1949. The Bank's record does not indicate the value of this account. There is no evidence in the Bank's record that the Account Owners or their heirs closed the account and received the proceeds themselves.

In addition, as noted above, Claimant [REDACTED 2] submitted a letter, dated 8 April 1953, from the Bank to Hersch Hermann Neumann. In this letter, the Bank informed Hersch Hermann Neumann that the Bank "was not in a position to carry out the requested transfer" because the account numbered 3551 no longer existed since March 1949, and because there was no account held in the name of Abe Leo Neumann at the Bank.

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 Hersch Hermann Neumann, numbered 39332, and Abe Neumann, numbered 16124.

The 1938 Census record for Hersch Hermann Neumann indicates that he was a Polish citizen, who was born on 23 December 1906, and that he resided at Negerlegasse 10/18 in Vienna II. The record further indicates that Hersch Hermann was a businessman, and that he was married to [REDACTED 1], née [REDACTED]. According to his 1938 Census form, Hersch Neumann owned a fifty-percent share of the company, *L. Neumann's Söhne*, a clothing business located at Rudolfsplatz 5, in Vienna I, and, as of 15 July 1938, his share was worth 13,105.03 Reichsmark ("RM"). In a letter to the Property Control Office ("*Vermögensverkehrsstelle*"), dated 12 December 1938, Hersch Neumann indicated that his total assets amounted to RM 4,414.93 on

that date. A further update of his asset declaration, dated 12 April 1939, bears a handwritten note, apparently added by an official, that reads “liquidated” against the business assets line. This record makes no mention of assets held in a Swiss bank account.

The 1938 Census record for Abe Neumann indicates that he was a Polish citizen, who was born on 12 April 1909, and that he resided at Rotesterngasse 15, in Vienna II. The record further indicates that Abe Neumann, a businessman, was married to Perl Neumann, née Strizower. Abe Neumann’s 1938 Census form indicates that, as of 15 July 1938, he held a fifty-percent share in the business *L. Neumann’s Söhne*, and that this share was worth RM 13,105.02. This record makes no mention of assets held in a Swiss bank account.

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 Claimants in one proceeding.

Identification of the Account Owners

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly identified Account Owner Hersch Neumann and Account Owner Abe Neumann. Claimant [REDACTED 1]’s husband’s and brother-in-law’s respective names and city and country of residence match the names and city and country of residence of Account Owner Hersch Neumann and Account Owner Abe Neumann specified on the Bank’s document submitted by Claimant [REDACTED 1]. Claimant [REDACTED 1] also identified herself as Account Owner Hersch Neumann’s spouse, and identified his home address in Vienna, as well as the name and street address of his business, which matches information about Account Owner Hersch Neumann contained in the 1938 Census records and in the record of the Viennese State Archive.

In support of her claim, Claimant [REDACTED 1] submitted documents, including her marriage certificate, indicating that her husband’s name was Tzvi (Hersch) Neumann; her son’s birth certificate, indicating that her son’s father was Hersch Neumann; and the 1938 Census form filed by Hersch Neumann, indicating (*inter alia*) that her husband resided in Vienna, providing independent verification that the person who is claimed to be Account Owner Hersch Neumann had the same name and resided in the same city recorded in the Bank’s record as the name and city of residence of Account Owner Hersch Neumann.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly identified Account Owner Hersch Neumann. Claimant

[REDACTED 2]'s father's name and city and country of residence match the name and city and country of residence of Account Owner Hersch Neumann specified in the Bank's record submitted by Claimant [REDACTED 1]. Claimant [REDACTED 2] also identified Account Owner Hersch Neumann's home address and the name of his business, which matches information about Account Owner Hersch Neumann contained in the 1938 Census records and the record of the Viennese State Archive. Claimant [REDACTED 2] also submitted a sample of his father's signature, which matches the signature contained in Hersch Neumann's 1938 Census record.

In support of his claim, Claimant [REDACTED 2] submitted documents, including a letter from the Bank to his father, and his father's passport, indicating that he resided in Vienna, providing independent verification that the person who is claimed to be Account Owner Hersch Neumann had the same name and resided in the same city as the name and city of residence of Account Owner Hersch Neumann.

The CRT notes that Claimant [REDACTED 2] did not identify Account Owner Abe Neumann, and that neither of the Claimants identified Account Owner Perl Neumann. However, the CRT notes that the information provided by Claimant [REDACTED 1] establishes that Account Owner Hersch Neumann and Account Owner Abe Neumann were brothers, and that Abe Neumann's 1938 Census record and the record from the Viennese State Archive establish that Perl Neumann was his spouse. Accordingly, the CRT determines that the Claimants' failure to identify each individual Account Owner does not undermine their overall identification of the Account Owners.

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 Claimants have made a plausible showing that Account Owner Hersch Neumann was a Victim of Nazi Persecution. The Claimants stated that Account Owner Hersch Neumann was Jewish, and that he fled Austria for Switzerland, Italy and Portugal before immigrating to the United States. The CRT notes that the Claimants did not provide information regarding Account Owner Abe Neumann or Account Owner Perl Neumann's fate during the Second World War. However, the CRT notes that the 1938 Census record and the record from the Viennese State Archive for Account Owner Abe Neumann indicate that he and Account Owner Perl Neumann were Jewish, and that they resided in Vienna, Austria after the incorporation of Austria into the Reich in March 1938 (the "Anschluss").

The Claimants' Relationship to the Account Owners

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to Account Owner Hersch Neumann by submitting specific information and documents, demonstrating that Account Owner Hersch Neumann was her spouse. These documents include Claimant [REDACTED 1]'s marriage certificate, indicating that she was married to Tzvi (Hersch) Neumann; and the 1938

Census record relating to Account Owner Hersch Neumann, indicating that his spouse was [REDACTED 1], née [REDACTED] (Claimant [REDACTED 1]). In addition, the CRT notes that the record of the Viennese State Archive demonstrates that Claimant [REDACTED 1] was Account Owner Hersch Neumann's spouse.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that he is related to Account Owner Hersch Neumann by submitting specific information, demonstrating that Account Owner Hersch Neumann was his father. In addition, the CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2]'s mother, submitted Claimant [REDACTED 2]'s birth certificate, which shows that his father's name was Hersch Neumann.

The CRT notes that neither of the Claimants provided any information or documents regarding their relationship to Account Owner Perl Neumann, and that Claimant [REDACTED 2] did not provide any information or documents in relation to his relationship to Account Owner Abe Neumann. However, given that the information provided by Claimant [REDACTED 1] makes it clear that Hersch Neumann and Abe Neumann were brothers, and that Claimant [REDACTED 2] is her son; and that both the 1938 Census record filed by Account Owner Abe Neumann and the record from the Viennese State Archive state that Perl Neumann was his spouse, the CRT concludes that there is sufficient information and documentation demonstrating that Account Owner Abe Neumann and Account Owner Perl Neumann are Claimant [REDACTED 2]'s paternal uncle and aunt, and that Account Owner Perl Neumann is the spouse of Claimant [REDACTED 1]'s brother-in-law.

The CRT notes that the record from the Vienna State Archive indicates that Account Owners Abe and Perl Neumann had children, who would be entitled to share in the award amount. The CRT has not received any claims from these children or any other relatives of the Account Owners.

The Issue of Who Received the Proceeds

Given that Account Owner Abe Neumann and Account Owner Perl Neumann fled Austria in October 1938, and that Account Owner Hersch Neumann fled Austria in October 1939; that Account Owner Hersch Neumann contacted the Bank regarding the account in 1953, indicating that he was unaware of its closure sometime prior to 1949; that there is no record of the payment of the Account Owners' account to them, nor any record of a specific date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their 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 Owners 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 the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the information provided by the Claimants, as well as the supporting documentation described above, have plausibly demonstrated that Account Owner Hersch Neumann, Account Owner Abe Neumann and Account Owner Perl Neumann were Claimant [REDACTED 1]'s husband, brother-in-law and brother-in-law's spouse, and Claimant [REDACTED 2]'s father, uncle and aunt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held one account of unknown type. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs ("SF"). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 25(1) of the Rules, if an account is a joint account and claimants related to each of the account owners have submitted claims to the account, it shall be presumed that each account owner was the owner of an equal share of the account. In this case, the Claimants are related to each of the three Account Owners. Accordingly, each Account Owner is presumed to have owned one-third of the account.

With respect to that portion of the account owned by Account Owner Hersch Neumann, according to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case, Account Owner Hersch Neumann was Claimant [REDACTED 1]'s husband and Claimant [REDACTED 2]'s father. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of Account Owner Hersch Neumann's one-third share of the total award amount, or one-sixth each.

With respect to that portion of the account owned by Account Owner Abe Neumann, 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 representation. In this case, Claimant [REDACTED 2] is a descendant of Account Owner Abe Neumann's parents. Accordingly, Claimant [REDACTED 2] is entitled to Account Owner Abe Neumann's one-third share of the total award amount. Claimant [REDACTED 1], who is related to Account Owner Abe Neuman by marriage only, is not entitled to share in his portion of the award amount.

With respect to that portion of the account owned by Account Owner Perl Neumann, according to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, both Claimants are related to Account Owner Perl Neumann by marriage. Accordingly, the CRT determines that it is fair and equitable that the Claimants share equally Account Owner Perl Neumann's one-third share of the total award amount, or one-sixth each.

In summary, Claimant [REDACTED 2] is entitled to two-thirds of the total award amount, and Claimant [REDACTED 1] is entitled to one-third of the total award amount.

Finally, as noted above, the record from the Vienna State Archive indicates that Account Owners Abe and Perl Neumann had children, who would be entitled to share in the award amount. The CRT has not received any claims from these children or from any other relatives of the Account Owners.

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
21 September 2005