

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1], [REDACTED 2], and [REDACTED 3]
also acting on behalf of [REDACTED], [REDACTED], and [REDACTED]
represented by [REDACTED]

in re Account of *Simon Hirschland*

Claim Numbers: 211043/MD¹; 216306/MD; 221098/MD²

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], (“Claimant [REDACTED 3]”) (together the “Claimants”) to the 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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as Simon Hirschland, a cousin of his grandmother, [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that Simon Hirschland was Jewish and that he was born in Berlin, Germany to [REDACTED] and [REDACTED], née [REDACTED]. According to the information provided by Claimant [REDACTED 1], Simon Hirschland was a banker who lived in Berlin and Essen, Germany. In support of his claim, Claimant [REDACTED 1] submitted a detailed family tree with specific information about Simon Hirschland’s ancestors. Claimant

¹ Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 211043 and 211960. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 211043. Claimant [REDACTED 1] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 211961. The CRT will treat the claim to this account in a separate decision.

² Claimant [REDACTED 3] submitted an additional claim to her own account, which is registered under the Claim Number 220700. The CRT will treat the claim to this account in a separate decision.

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

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as a bank named *Simon Hirschland* that was located in Essen. Claimant [REDACTED 2] stated that the bank was established by Simon Hirschland and his brother, [REDACTED] (Claimant [REDACTED 2]'s great-great-grandfather), and that it operated in Essen, Dortmund, and Düsseldorf, Germany. Claimant [REDACTED 2] stated that [REDACTED]'s grandson, [REDACTED], the Claimant's paternal grandfather, was one of the principal partners of the bank. The Claimant further stated that he knows that [REDACTED] and [REDACTED]'s father-in-law, [REDACTED], deposited funds at a bank located in Zurich, Switzerland. According to Claimant [REDACTED 2], [REDACTED], who was Jewish, was born on 2 May 1875 in Essen and was married to [REDACTED] ([REDACTED]) [REDACTED], née [REDACTED], with whom he had one child, [REDACTED], who was born on 16 February 1907. Claimant [REDACTED 2] explained that the bank *Simon Hirschland* was taken over by the Nazis, and that [REDACTED] and his wife were arrested on 5 October 1943 and interned at a concentration camp in Drancy, France, from where they were deported to Auschwitz on 28 October 1943. The Claimant stated that his grandparents perished at Auschwitz on an unknown date. In support of his claim, Claimant [REDACTED 2] submitted a detailed family tree, according to which, Simon Hirschland, who was the co-founder of the bank, had a son [REDACTED], who had two sons, [REDACTED] and [REDACTED]. Claimant [REDACTED 2] also submitted his and his father's birth certificates, demonstrating that he is [REDACTED]'s grandson, as well as decisions issued by the French Ministry of Veterans and War Victims declaring [REDACTED] and [REDACTED] dead. Claimant [REDACTED 2] indicated that he was born on 21 August 1936 in Paris, France and that he is the only child of [REDACTED], who died in 1972. The Claimant stated that he is the only surviving heir of [REDACTED].

Information Provided by Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as a private bank named *Simon Hirschland* that was located in Essen, Germany. Claimant [REDACTED 3] stated that the partners of the bank before its liquidation by the Nazis in 1938 were her late husband, [REDACTED]; her husband's brother, [REDACTED]; and her husband's maternal uncles, [REDACTED] and [REDACTED], who were all Jewish and lived in Germany. The Claimant explained that her husband's mother, [REDACTED], née [REDACTED], [REDACTED], and [REDACTED] were siblings and the children of [REDACTED] and [REDACTED].

Claimant [REDACTED 3] stated that [REDACTED] was married to [REDACTED], née [REDACTED], and that the couple had two children: [REDACTED], née [REDACTED], who was born on 17 May 1923 in Essen and died in 1994 in San Francisco, California, and [REDACTED]. Claimant [REDACTED 3] further stated that [REDACTED] was a banker and that his business was located at Lindenallee 7-9 in Essen and at Ballindamm 27 in Hamburg, Germany between 1920 and 1938. Claimant [REDACTED 3] indicated that [REDACTED] died

on 14 March 1942 in Scarsdale, New York, and that [REDACTED] died on 27 June 1973 in Mamaroneck, New York.

Claimant [REDACTED 3] indicated that [REDACTED] was born on 14 May 1885 in Essen and was married to [REDACTED], née [REDACTED], with whom he had three children: [REDACTED], née [REDACTED], who was born on 10 November 1912 in Essen, [REDACTED], who was born on 22 March 1914 in Essen and died on an unknown date in Great Neck, New York, and [REDACTED], née [REDACTED], who was born on 11 March 1920 in Essen and died on 10 November 1996 in Ithaca, New York. Claimant [REDACTED 3] further stated that [REDACTED] was a banker and that he died on 2 January 1957 in New York, New York. Claimant [REDACTED 3] indicated that [REDACTED] died on an unknown date in New York, New York.

Claimant [REDACTED 3] stated that [REDACTED] was born on 11 August 1905 in Essen and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 3] further stated that [REDACTED] was a banker and that he died on 16 November 1981 in White Plains, New York.

Claimant [REDACTED 3] indicated that she was born on 21 October 1910 and that she is the widow of [REDACTED], a banker who was born on 26 March 1902 in Hamm, Germany and died on 18 April 1988 in Dobbs Ferry, New York. Claimant [REDACTED 3] is representing the following individuals: [REDACTED]'s widow, [REDACTED], who was born on 28 April 1906 in Düsseldorf, [REDACTED]'s son, [REDACTED], who was born on 13 March 1925 in Essen-Werden, Germany, and [REDACTED]'s daughter, [REDACTED], née [REDACTED], who was born on 10 November 1912 in Essen.

In support of her claim, Claimant [REDACTED 3] submitted documents, including a birth certificate of [REDACTED] ([REDACTED]) [REDACTED] certifying that he is the son of [REDACTED] and [REDACTED], née [REDACTED]; an excerpt from the records of a court in Hamburg certifying that Claimant [REDACTED 3] was married to [REDACTED]; and an article from a corporate history journal titled *Tradition*. According to the information in this article, the bank *Simon Hirschland* was established in 1841 in Essen by Simon Hirschland. Simon Hirschland's son, [REDACTED], became co-owner of the bank in 1874, and [REDACTED]'s sons, [REDACTED] and [REDACTED], became its co-owners in 1908. In 1936, [REDACTED] and [REDACTED]'s nephews, [REDACTED] and [REDACTED], became partners of the bank. Bank *Simon Hirschland* was liquidated in October 1938, and taken over by a bank named *Burkhardt & Co*. Claimant [REDACTED 3] also submitted a letter from the Nazi authorities to [REDACTED] dated 28 July 1938 informing the addressee that the liquidation of the bank *Simon Hirschland* had to be supervised by the Municipal Business Advisor in Essen. Claimant [REDACTED 3] indicated that she was born on 21 October 1910 in Cottbus, Germany.

Information Available in the Bank's Record

The Bank's record consists of a bank customer card. According to this record, the Account Owner was a bank named *Simon Hirschland* in Essen, Germany. The Account Owner held a custody account that was transferred to *Burkhardt & Co.* on 11 October 1938. The amount in the account on the date of transfer is unknown.

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.

Identification of the Account Owner

Claimants [REDACTED 2] and [REDACTED 3] identified that the Account Owner was a bank located in Essen, which precisely matches the unpublished information about the Account Owner contained in the Bank's record. The documents submitted by Claimant [REDACTED 3] indicate that the bank *Simon Hirschland* was acquired by the bank *Burkhardt & Co.*, which matches unpublished information contained in the Bank's records. According to the article in the corporate history journal titled *Tradition*, the bank *Simon Hirschland* was established in 1841 in Essen by Simon Hirschland, Simon Hirschland's son, [REDACTED], became co-owner of the bank in 1874; [REDACTED]'s sons, [REDACTED] and [REDACTED], became its co-owners in 1908; in 1936, [REDACTED] and [REDACTED]'s nephews, [REDACTED] and [REDACTED], became partners of the bank; bank *Simon Hirschland* was liquidated in October 1938, and taken over by a bank named [REDACTED]. Claimant [REDACTED 3] also submitted a letter from the Nazi authorities to [REDACTED] dated 28 July 1938 informing him that the liquidation of the bank *Simon Hirschland* was to be supervised by the Municipal Business Advisor in Essen, providing independent verification that bank *Simon Hirschland* was liquidated by the Nazis.

Claimant [REDACTED 2] stated that the bank *Simon Hirschland* was located in Essen, which matches unpublished information about the Account Owner's location contained in the Bank's record. Claimant [REDACTED 2] also stated that the bank *Simon Hirschland* was liquidated by the Nazis, which is consistent with the information provided by Claimant [REDACTED 3]. However, there is no evidence that [REDACTED] was a partner of the bank *Simon Hirschland* when the bank was liquidated, and there is no mention of an [REDACTED] as a bank partner in the *Tradition* journal. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that Claimants [REDACTED 2] and [REDACTED 3] have plausibly identified the Account Owner and that Claimant [REDACTED 3] has provided a plausible basis for concluding that her late husband, [REDACTED], was a partner in the Account Owner.

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 3] and Claimant [REDACTED 2] stated that the Account Owner was a company whose owners were Jewish. Claimant [REDACTED 3] submitted documents, including the corporate history journal titled *Tradition*, which indicates that bank *Simon Hirschland* was liquidated in October 1938, and a 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 bank *Simon Hirschland* was liquidated by the Nazis. Further, Claimant [REDACTED 3] stated that the partners of the Account Owner, [REDACTED], [REDACTED], [REDACTED], and [REDACTED], were Jewish and lived in Nazi-controlled Germany.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 3] has plausibly demonstrated that she and the relatives she represents are related to partners of the bank *Simon Hirschland*: [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. In support of her claim, Claimant [REDACTED 3] submitted documents, including birth certificates, an excerpt from court records, and a press article, demonstrating that she is the wife of [REDACTED]; that [REDACTED] is the daughter of [REDACTED]; that [REDACTED] is the wife of [REDACTED]; and that [REDACTED] is the son of [REDACTED].

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to *Burkhardt & Co.* on 11 October 1938 and not paid to the Account Owner or to the partners of the Account Owner or their heirs.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 3]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that she and the relatives she represents are the heirs of the partners of the Account Owner, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the partners of the Account Owner nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one custody account. 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 a custody account was 13,000.00 Swiss Francs. 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 162,500.00 Swiss Francs.

Division of the Award

According to Article 23(3) of the Rules, if the Account Owner is a legal entity, the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. The CRT's precedent is to prefer the claims of spouses and direct descendants of Account Owners to the claims of more distant relatives. The CRT makes its determination based on the best available information, and the information provided in the corporate history journal titled *Tradition* provides credible information as to the ownership of the Account Owner. In this case, Claimants [REDACTED 3] and the relatives Claimant [REDACTED 3] represents are the spouses and direct descendants of the Account Owner's partners: [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. As noted above, Claimant [REDACTED 3] is the wife of [REDACTED]; [REDACTED] is the daughter of [REDACTED]; [REDACTED] is the wife of [REDACTED]; and [REDACTED] is the son of [REDACTED]. Claimant [REDACTED 2] has identified the Account Owner, but he has not provided information showing that his ancestor, [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 a person named Simon Hirschland, who, by the time the Account Owner was confiscated and transferred to [REDACTED], no longer appears to have had an ownership interest in the Account Owner. Accordingly, Claimant [REDACTED 3], [REDACTED], [REDACTED], and [REDACTED] are each entitled to one-quarter of the total award amount. Claimant [REDACTED 2] and Claimant [REDACTED 1] are not eligible to participate in the Award, as their relatives were not partners in the Account Owner at the time of liquidation.

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
6 February 2004