

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Account of Max Bernheimer

Claim Number: 770413/BW¹

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Max Bernheimer and Jonas Weil.² This Denial is to the published account of Max Bernheimer (the “Account Owner”) at the Brugg 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 an Initial Questionnaire identifying the Account Owner as her father, Max Bernheimer, who was born on 18 November 1893. In a telephone conversation with the CRT, the Claimant stated that her father, who was Jewish, was born in Buppenhausen, Germany, that he was married to [REDACTED] in 1925 in Laupheim, Germany, and that the couple resided in Stuttgart, Germany. The Claimant stated that her father was a traveling salesman who sold clothing, hosiery and undergarments and that his office was in their house on Hohenheimerstrasse in Stuttgart. The Claimant indicated that she and her family fled Germany to the United States in 1938 to avoid Nazi persecution.

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0017184, 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 that 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 770413. The Claimant submitted an additional IQ, which was not numbered, to the Court in the United States. This IQ is also being treated under the consolidated Claim Number 770413.

² The CRT did not locate an account belonging to Jonas Weil 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 Claimant submitted an excerpt from the booklet of remembrance from her father's funeral at the *Piser Memorial Chapel* in Chicago, Illinois, the United States, indicating that Max Bernheimer was born on 18 November 1893 in Germany, that he died on 21 September 1981, and that a rabbi presided over the service. The Claimant indicated that she was born on 11 September 1929 in Stuttgart.

Information Available in the Bank's Records

The Bank's records consist of internal bank correspondence from 1933 to 1935. According to these records, the Account Owner was Max Bernheimer, who resided in Ulm, Germany. The Bank's records indicate that the type of account held by the Account Owner was a loan account. The records do not provide information as to the dates of opening or closing of the account. The records show that the amount of the outstanding loan as of 8 December 1933 was 142,360.00 Swiss Francs ("SF").

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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the area in which her father resided in Germany, which matches unpublished information about the area of residence of the Account Owner. The CRT notes that the Claimant indicated that her father first resided in Laupheim, which is approximately 20 kilometers from Ulm, the Account Owner's unpublished city of residence, as well as in Stuttgart, which is approximately 65 kilometers from Ulm, and also indicated that her father frequently traveled around Germany and Europe for business.

In support of her claim, the Claimant submitted an excerpt from the booklet of remembrance from her father's funeral, providing independent verification that the person who is claimed to be the Account Owner had the same name and was born in the same country recorded in the Bank's records as the name and country of residence of the Account Owner.

The CRT notes that the name Max Bernheimer appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). The CRT also notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Max Bernheimer, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant has based her present 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 her relative, but rather

on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her 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 further notes that there are no other claims to this account. Taking all of these factors into account, the 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 Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he resided in Nazi Germany, and that he and his family fled to the United States in 1938 to avoid Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was the Claimant's father. The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted an excerpt from the booklet of remembrance from her father's funeral. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that 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 Account Owner, as she has asserted in her Claim Form. 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 type of account held by the Account Owner was a loan account. As the account of the Account Owner represents an obligation of the Account Owner, and not an asset held by the Bank on behalf of the Account Owner, the CRT is unable to make an award of the Account Owner's account to the Claimant.

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.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
30 August 2010