

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]
represented by Erez Bernstein

and to Claimant [REDACTED 2]

in re Accounts of Rudolf Bienenfeld, Accounts of Grete Bienenfeld, and Accounts of Riccarda Koritschoner

Claim Numbers: 401149/BW; 401186/BW¹

This Certified Denial is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Rudolf Bienenfeld (“Account Owner Rudolf Bienenfeld”), the published accounts of Grete Bienenfeld (“Account Owner Grete Bienenfeld”), and the unpublished accounts of Riccarda Koritschoner (“Account Owner Koritschoner”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank I”), and the published account of Account Owner Rudolf Bienenfeld at the Zurich branch of the [REDACTED] (“Bank II”) (together the “Banks”).

All denials 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 owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Grete Bienenfeld as her paternal aunt, Grete Bienenfeld, née Koritschoner, and Account Owner Rudolf Bienenfeld as her uncle by marriage, Dr. Rudolf Franz Bienenfeld, who was an attorney. Claimant [REDACTED 1] stated that her aunt Grete Bienenfeld, who was her father’s twin sister, was born on 26 February 1891 in Vienna, Austria, and married Rudolf Bienenfeld, who was born on 27 September 1887 in Vienna. Claimant [REDACTED 1] explained that Rudolf and Grete Bienenfeld did not have any children. According to Claimant [REDACTED 1], Grete

¹ [REDACTED 1] (“Claimant [REDACTED 1]”) submitted two additional claims, which are registered under the Claim Numbers 202397 and 751366. In a separate decision, the accounts of Marie Koritschoner were awarded to Claimant [REDACTED 1]. See *In re Account of Marie Koritschoner* (approved on 23 June 2008).

and Rudolf Bienenfeld resided in Zurich and Geneva, Switzerland, during the early 1930s, and in the late 1930s also lived at Gregor Mendlstrasse 52 in Vienna. Claimant [REDACTED 1] stated that Grete and Rudolf Bienenfeld, who were Jewish, fled Vienna after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), and that they escaped to Zurich via Italy. Claimant [REDACTED 1] explained that Grete Bienenfeld passed away in Zurich in 1938 following the *Anchluss*, and that Rudolf Bienenfeld emigrated from Switzerland to England in 1938 or 1939, where he died in 1961.

In a telephone conversation with the CRT, Claimant [REDACTED 1] identified Account Owner Riccarda Koritschoner as her half-sister, Riccarda Koritschoner, who was the child of her father and his first wife [REDACTED].

In support of her claim, Claimant [REDACTED 1] submitted a copy of her own birth certificate, indicating that [REDACTED 1] was born on 30 September 1925 in Vienna to [REDACTED] and [REDACTED], née [REDACTED], both of whom had converted from Judaism to Catholicism. Additionally, Claimant [REDACTED 1] submitted a detailed family tree, which indicates that her father [REDACTED] had a daughter from a previous marriage named Riccarda Koritschoner, who was born in 1917.

Claimant [REDACTED 1] indicated that she was born on 30 September 1925 in Vienna, Austria.

Claimant [REDACTED 1] previously submitted an ATAG Ernst & Young claim form (“ATAG Form”) in 1999, and an Initial Questionnaire (“IQ”) to the Court in 1999, asserting her entitlement to a Swiss bank account owned by her mother, [REDACTED].²

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying Account Owner Rudolf Bienenfeld as her father’s stepfather, Dr. Rudolf Franz (or Franz Rudolf) Bienenfeld, who was born on 27 September 1886 in Vienna, and Account Owner Grete Bienenfeld as Dr. Rudolf Bienenfeld’s first wife, Grete (Margarethe) Bienenfeld, née Koritschoner. Claimant [REDACTED 2] stated that Grete and Rudolf Bienenfeld married in Vienna on 7 September 1915. Claimant [REDACTED 1] explained that Rudolf and Grete Bienenfeld did not have any children. According to Claimant [REDACTED 2], Rudolf Bienenfeld, who was a lawyer in Vienna, made frequent business trips to Switzerland from 1933 to 1937. Claimant [REDACTED 2] stated that Grete and Rudolf Bienenfeld resided at Brauergasse 2 in Vienna in the early 1930s, and at Gregor Mendlstrasse 52 in Vienna from June 1935 to March 1938. Claimant [REDACTED 2] stated that Grete and Rudolf Bienenfeld, who were Jewish, fled Vienna after the *Anschluss*, and escaped to Zurich via Italy. Finally, Claimant [REDACTED 2] stated that Rudolf Bienenfeld emigrated from Switzerland to England in 1938 or 1939, and later resided in England at 14 Arkwright Road in London. Claimant [REDACTED 2] explained that Rudolf Bienenfeld later married her paternal grandmother, [REDACTED], née [REDACTED], who had been widowed from her first husband in approximately 1944 or 1945. Claimant [REDACTED 2] indicated that Rudolf Bienenfeld died on 18 May 1961.

² As noted above, the CRT treated these claims in a separate decision.

In support of her claims, Claimant [REDACTED 2] submitted Rudolf Bienenfeld's will, dated 5 March 1953, bequeathing all of his assets to [REDACTED] and naming her as the executor of his estate. The will further states that Rudolf Bienenfeld was residing in 1953 at 14 Arkwright Road in London. The will also stipulates that in the event that [REDACTED] predeceased him, [REDACTED]'s sons from her first marriage, [REDACTED] (Claimant [REDACTED 2]'s father) and [REDACTED], would inherit his estate. Claimant [REDACTED 2] also submitted the order of a court in London, dated 18 August 1961, stating that the will had been granted probate, and that Rudolf Bienenfeld's widow, [REDACTED], would inherit his entire estate.

Claimant [REDACTED 2] indicated that she was born on 9 September 1943 in London, England.

Information Available in the Banks' Records

Bank I

Bank I's records consist of customer cards, account opening contracts, a power of attorney form, an acknowledgement of receipt of Bank I's general terms and conditions, and printouts from Bank I's database. Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of Bank I to obtain additional information about these accounts ("Voluntary Assistance"). Bank I provided the CRT with additional documents, including customer cards, lists of accounts, a power of attorney form, a confirmation of power of attorney, a custody account contract, and correspondence between the Account Owners and Bank I.

According to these records, Account Owner Rudolf Bienenfeld was Dr. Rudolf Bienenfeld, an attorney (*Rechtsanwalt*) who resided in Vienna, Austria, and Zurich, Switzerland, and Account Owner Grete Bienenfeld was his wife, *Frau* (Mrs.) Grete Bienenfeld, née Koritschoner, who also resided in Vienna and Zurich. Bank I's records list several addresses for Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld: the *Hotel Regina* in Vienna; Brauergasse 2 in Vienna; Graben 22 in Vienna; Petersplatz 4 in Vienna; and the *Grand Hotel Dolder* in Zurich. These records indicate that Account Owner Rudolf Bienenfeld's law practice was located at Seilerstätte 13 in Vienna. These records further include a letter from Bank I to Account Owner Rudolf Bienenfeld, dated 13 April 1938, indicating that on that date, Account Owner Rudolf Bienenfeld was residing at the *Grand Hotel Dolder* in Zurich, and that he had visited Bank I that morning. Additionally, these records indicate that in 1939, Dr. Rudolf Bienenfeld resided in London, England, and that by 1948 he resided at 14 Arkwright Road in London. These documents further indicate that Account Owner Koritschoner was *Frl.* (Miss) Riccarda Koritschoner, who was born on 23 December 1917, was a Hungarian citizen, and that her mother was *Frau* (Mrs.) [REDACTED], who both resided at Wohllebengasse 19 in Vienna.

According to Bank I's records, the Account Owners held six accounts at Bank I: Account Owner Grete Bienenfeld held a custody account and a demand deposit account numbered 36872; Account Owner Rudolf Bienenfeld held a custody account and a demand deposit account on behalf of Account Owner Koritschoner, numbered 32614; and Account Owner Rudolf

Bienenfeld held a custody account numbered 47724 and a demand deposit account numbered 86414.

Accounts numbered 36872

With respect to the accounts numbered 36872, Bank I's records indicate that Account Owner Grete Bienenfeld held a custody account and a demand deposit account, both numbered 36872, over which her husband Dr. Rudolf Bienenfeld held power of attorney. These records further indicate that Account Owner Grete Bienenfeld provided Bank I with two addresses for account-related correspondence: her husband's law office at Seilerstätte 13 in Vienna, and the name of the hotel *Grand Hotel Dolder* in Zurich. According to these records, as of 1 November 1933, all incoming amounts in the accounts, following the deduction of bank fees, were to be transferred to an account at Bank I belonging to the Vienna bank *Frid & Thiemann*. A further notation on the account opening card indicates however that both of these accounts were transferred on 21 March 1938, and an entry on a bank ledger indicates that on 26 March 1938, the proceeds of these accounts were noted as being transferred to another named account held at Bank I. Finally, a further bank ledger entry includes a notation that the accounts 36872 were officially designated as closed on 1 September 1938.

Accounts numbered 32614

With respect to the accounts numbered 32614, Bank I's records indicate that Account Owner Rudolf Bienenfeld held a custody account and a demand deposit account, both numbered 32614, which were opened in 1931, and over which Grete Bienenfeld held power of attorney. These accounts bore the label "*Rubrik [Subject]: mj. [minor] Riccarda Koritschoner,*" indicating that Account Owner Rudolf Bienenfeld held these accounts for the benefit of the minor (*Minderjährige*) named Riccarda Koritschoner (Account Owner Koritschoner).

Bank I's records include a telegram, dated 22 March 1938, stating that Account Owner Rudolf Bienenfeld had fled Vienna for Zurich, and instructing Bank I to freeze the custody account held for the benefit of Riccarda Koritschoner. These records further indicate that the custody account was frozen on 23 March 1938, and all correspondence regarding these accounts was subsequently directed to Bank I's legal department. According to these records, Account Owner Rudolf Bienenfeld visited Bank I in person on 25 March 1938 regarding these accounts. An entry on a bank ledger indicates that on 26 March 1938, the proceeds of these accounts were noted as being transferred to another account at Bank I, and a further bank ledger entry includes a notation that the accounts 32614 were officially designated as closed on 29 March 1938.

Correspondence contained in Bank I's records indicates that Account Owner Rudolf Bienenfeld instructed Bank I on 25 March 1938 to transfer the assets of account 32614 into a new custody account in the name of "*Minderjähriges [minor] Fräulein [Miss] Riccarda Koritschoner*" (Account Owner Koritschoner), with the condition that the right of disposal (*Verfügungsrecht*) of the assets could only be effected upon the joint agreement of Account Owner Koritschoner's mother, [REDACTED], and the Circuit Court of the City of Vienna (*Bezirksgericht Innere Stadt Wien*). These records further contain a custody account opening card for an account, numbered

41845, which indicates the account owner as: “Koritschoner, *minderjähriger* [minor] *Frl.* [Miss] Riccarda” (Account Owner Koritschoner).

According to further documents contained in Bank I’s records, on 5 December 1938, Account Owner Koritschoner presented a document to Bank I from the Guardianship Authority of the Regional Administrative Unit of Pest-Pilis-Solt-Kiskun (*Waisenstuhl des Komitates Pest-Pilis-Solt-Kiskun*) which indicates that Account Owner Koritschoner had been determined to be of the full age of majority (*grossjährig*). Further correspondence contained in Bank I’s records indicate that Bank I recognized Account Owner Koritschoner as being the full age of majority and granted her full and exclusive access to her account on 31 January 1939.

Finally, Bank I’s records indicate that Account Owner Koritschoner opened an account, numbered 66839, on 10 August 1939. An entry on the account opening ledger indicates that this account was opened by a transfer from another named account at Bank I. These records further indicate that this account was closed by Account Owner Koritschoner on 31 October 1947 by a personal withdrawal of the assets (*Saldo-Bezug*).

Accounts numbered 47724 and 86414

The additional records provided by Bank I include bank ledgers, reporting documents and internal correspondence, dated 1948, referring to accounts owned by Account Owner Rudolf Bienenfeld, who resided at 14 Arkwright Road in London N.W. 3. These records indicate that Account Owner Rudolf Bienenfeld held a custody account, numbered 47724, and a U.S. dollar demand deposit account, numbered 86414. These records further indicate that these accounts were frozen at some time prior to 1948, most likely as part of the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the “1945 Freeze”). The records indicate that Bank I applied for the release of these accounts, and that they were unfrozen and released to Bank I in 1948. The value of the assets of each account is credited on the same bank ledger sheet to Account Owner Rudolf Bienenfeld, whose address is listed as 14 Arkwright Road, London NW3. Bank I’s records do not indicate whether these accounts were later closed.

Bank II

Bank II’s records consist of a customer card and printouts from Bank II’s database. According to these records, Account Owner Rudolf Bienenfeld was Dr. Rudolf Bienenfeld, who resided in Zurich, Switzerland, and Vienna, Austria. Bank II’s records indicate that Account Owner Rudolf Bienenfeld held a custody account, numbered L50606, which was opened on 20 September 1933 and closed on 2 May 1938.

Pursuant to a Voluntary Assistance request, Bank II recently provided the CRT with additional documents regarding this custody account. These documents contained a custody account identification card (“*Leitkarte*”) and custody account portfolio holding cards (“*Depotvalorenkarten*”) for each security held within the custody account.

These documents indicate that the account contained a number of securities, the majority of which were transferred to Bank II’s Zurich-Seefeld branch on 22 March 1938. Two further

securities were transferred to the Zurich-Seefeld branch on 27 April 1938, after which the account was empty. As indicated above, a notation on the account card indicates the account was closed on 2 May 1938.

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

The Claimants have each plausibly identified the Account Owners. The names of Claimant [REDACTED 1]'s aunt and uncle and the names of Claimant [REDACTED 2]'s step-grandfather and his first wife match the published names of the Account Owners. The Claimants identified Account Owner Rudolf Bienenfeld's title and profession; Account Owner Grete Bienenfeld's maiden name; the relationship between Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld; the two cities of residence of Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld; the third city of residence of Account Owner Rudolf Bienenfeld; and the family name of Account Owner Koritschoner, for whose benefit Account Owner Rudolf Bienenfeld initially held the accounts numbered 32614 at Bank I, all of which match unpublished information about the Account Owners contained in the Banks' records. Furthermore, Claimant [REDACTED 1] identified the full name and year of birth of Account Owner Koritschoner, and Claimant [REDACTED 2] has identified two of the unpublished street addresses used by Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld.

In support of her claim, Claimant [REDACTED 2] submitted documents, including her step-grandfather's will, providing independent verification that the person who is claimed to be Account Owner Rudolf Bienenfeld had the same name and address recorded in Bank I's records as the name and address of Account Owner Rudolf Bienenfeld.

In support of her claim, Claimant [REDACTED 1] submitted her birth certificate and a detailed family tree, which both contain the name Koritschoner, and which provide independent verification that the person who is claimed to be Account Owner Grete Bienenfeld and Account Owner Koritschoner had the same name as recorded in Bank I's records.

The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different country of residence than the countries of residence of Account Owner Rudolf Bienenfeld.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld were Victims of Nazi Persecution. The Claimants stated that Rudolf and Grete Bienenfeld were Jewish and that they fled Austria in 1938 following the *Anschluss*. Furthermore, Rudolf Bienenfeld's flight from Austria is documented in the records of Bank I.

The Claimants' Relationships to the Account Owners

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information, demonstrating that Rudolf and Grete Bienenfeld were her aunt and uncle, and Riccarda Koritschoner was her half-sister. The CRT notes that Claimant [REDACTED 1] identified unpublished information about the Account Owners as contained in the Banks' records. The CRT further notes that Claimant [REDACTED 1] submitted a copy of her birth certificate, which provides independent verification that Claimant [REDACTED 1]'s relatives bore the same family name as Account Owner Grete Bienenfeld's maiden name and Account Owner Koritschoner's maiden name, and that they resided in Vienna. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to Claimant [REDACTED 1] as family members, and all of this information supports the plausibility that Claimant [REDACTED 1] is related to the Account Owners, as she has asserted in her Claim Form.

The CRT notes that Claimant [REDACTED 1] indicated that she may have other surviving relatives, but that because they are not represented in Claimant [REDACTED 1]'s claim, the CRT will not treat their potential entitlement to the Account Owners' accounts in this decision.

Claimant [REDACTED 2] has plausibly demonstrated her relationship to Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld by submitting specific biographical information, demonstrating that Account Owner Rudolf Bienenfeld was Claimant [REDACTED 2]'s step-grandfather, and that Account Owner Grete Bienenfeld was her step-grandfather's first wife. The CRT notes that Claimant [REDACTED 2] identified unpublished information about Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld as contained in the Banks' records. The CRT further notes that Claimant [REDACTED 2] submitted a copy of Rudolf Bienenfeld's will. 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 Account Owner Rudolf Bienenfeld and Account Owner Grete Bienenfeld were well known to Claimant [REDACTED 2] as family members, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owners, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Bank I

Bank I's records indicate that Account Owner Rudolf Bienenfeld held a custody account numbered 47724, and a U.S. dollar demand deposit account numbered 86414, both of which

were frozen prior to 1948, and which were unfrozen and released to Bank I in 1948. The CRT notes that Bank I's records do not indicate if these accounts were later closed. Given that Bank I's records indicate that Account Owner Rudolf Bienenfeld was residing in London in 1948, and that Account Owner Rudolf Bienenfeld had provided Bank I with his address in London, the CRT concludes that Account Owner Rudolf Bienenfeld received the proceeds of these accounts.

With respect to the custody and demand deposit accounts numbered 32614 held by Account Owner Rudolf Bienenfeld for the benefit of Riccarda Koritschoner, Bank I's records indicate that both of these accounts were closed on 29 March 1938, and that the assets were transferred into account 41845. Bank I's records indicate that Account Owner Rudolf Bienenfeld held no rights over account 41845, and that Account Owner Koritschoner was subsequently determined to be of full majority age and given full and exclusive rights over the account on 31 January 1939. Bank I's records further indicate that Account Owner Koritschoner opened an account, numbered 66839, on 10 August 1939. Given that an entry on the account opening ledger indicates that this account was opened by a transfer from another named account at Bank I, the CRT determines that the proceeds of the account numbered 41845 were used to open account 66839. Given that Bank I's records indicate that account 66839 was closed by Account Owner Koritschoner on 31 October 1947 by a personal withdrawal of the assets (*Saldo-Bezug*), the CRT concludes that Account Owner Koritschoner received the proceeds of this account.

Finally, Bank I's records indicate that the custody and demand deposit accounts numbered 36872 held by Account Owner Grete Bienenfeld were closed on 21 March 1938. Given that Bank I's records indicate these accounts were transferred to another named account at Bank I, that Account Owner Rudolf Bienenfeld visited Bank I in person on 25 March 1938, and that Account Owner Rudolf Bienenfeld continued to maintain banking relationships with the Bank after fleeing Austria on 22 March 1938, the CRT concludes that Account Owner Grete Bienenfeld received the proceeds of the accounts numbered 36872.

Bank II

The CRT notes that Bank II's records indicate that the securities in Account Owner Rudolf Bienenfeld's account at Bank II were transferred from Bank II to Bank II's Zurich-Seefeld branch on 22 March 1938 and 27 April 1938, after which the account was empty and was closed on 2 May 1938. Given that Bank I's records indicate that Account Owner Rudolf Bienenfeld was residing at the *Grand Hotel Dolder* in Zurich at that time, that Account Owner Rudolf Bienenfeld had visited Bank I regarding his accounts on 25 March 1938 and 13 April 1938, and given that the Account Owners closed their accounts at Bank I during the same one-month period, the CRT concludes that Account Owner Rudolf Bienenfeld closed this account at Bank II and received the proceeds himself.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the Claimants 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
17 December 2010