

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

to Claimant [REDACTED 3],

and to Claimant [REDACTED 4]

in re Account of Rozalia Brzostek

Claim Numbers: 003711/AV; 004484/AV; 004510/AV; 004513/AV^{1,2}

This Certified Denial is based on the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”), and [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) (together the “Claimants”) to the published account of Rozalia Brzostek (the “Account Owner”) at the [REDACTED] (the “Bank”).³

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

The Claimants each submitted a Claim Form asserting that their relative, Leon Brzostek, who was born on 1 May 1905 in Poland, and was married to Claimant [REDACTED 3] in December 1938 in Poland, owned a Swiss bank account. The Claimants indicated that their relative was

¹ According to Article 37 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 four claims of the Claimants in one proceeding.

² [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 4] (“Claimant [REDACTED 4]”) submitted Initial Questionnaires to the Court in 1999 and Claim Forms to the CRT. The CRT is treating the Initial Questionnaire (“IQ”) and the Claim Form of Claimant [REDACTED 2] under the consolidated Claim Number 004484, and is treating the IQ and Claim Form of Claimant [REDACTED 4] under the consolidated Claim Number 004513.

³ In these claims, Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4] also claimed an account of Leon Leib Brzostek. The CRT will treat the claims to this account in a separate determination.

Claimant [REDACTED 2]'s and Claimant [REDACTED 4]'s father, and Claimant [REDACTED 1]'s uncle. The Claimants stated that their relative opened the account under the alias of Rozalia Brzostek. The Claimants asserted that the first name of this alias was a combination of two names: [REDACTED], which was the first name of Leon Brzostek's mother-in-law, and [REDACTED], which was the middle name of his sister-in-law (who was Claimant [REDACTED 1]'s mother). The Claimants stated that their relative, who was Jewish, lived in Lochow, Poland, where he was a merchant. The Claimants indicated that their relative was deported to the Warsaw Ghetto in 1942 and was murdered by the Nazis in 1945.

Claimant [REDACTED 1] further asserted that her mother, Rahel Lea Brzostek, née Malishewitz, who was married to [REDACTED], owned a Swiss bank account. Claimant [REDACTED 1] stated that her mother, who was Jewish, may have also used the name Rozalia. Claimant [REDACTED 1] indicated that her mother resided in Rochow, and that she perished in 1942 in Treblinka. In a telephone conversation with the CRT on 6 November 2002, Claimant [REDACTED 1] stated that while her mother's name was Rahel Lea, she may have used the name Rozalia as a secular alternative to those names. Claimant [REDACTED 1] did state, however, that she considered it more likely that the name Rozalia was the alias of her uncle, Leon Brzostek, rather than the alternative name of her mother.

Claimant [REDACTED 1] indicated that she was born on 15 July 1925 in Poland, Claimant [REDACTED 2] indicated that he was born on 3 March 1942 in Poland, Claimant [REDACTED 3] indicated that she was born on 10 November 1915 in Poland, and Claimant [REDACTED 4] indicated that she was born on 14 August 1939 in Poland.

The Claimants submitted documents in support of their applications, including: (1) Claimant [REDACTED 3]'s birth certificate and a report from the Israeli Ministry of Finance, both of which identify her mother as [REDACTED], née [REDACTED]; and (2) Claimant [REDACTED 1]'s identity card, identifying her mother as Rachel Lea Muller.

Claimant [REDACTED 2] and Claimant [REDACTED 4] submitted Initial Questionnaires ("IQs") to the Court in 1999 asserting that their relative, Leon Brzostek, owned a Swiss bank account. The CRT notes that neither Claimant [REDACTED 2] nor Claimant [REDACTED 4] identified the alias "Rozalia" in their IQs.

Information Available in the Bank's Records

The CRT notes that the Claimants submitted a claim to an account belonging to Rozalia Brzostek. The auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") reported one account whose owner's name matches that provided by the Claimants. The account is identified below by its Account Identification Number, which is a number assigned to the account by the ICEP auditors for tracking purposes.

Account 4022938

The Bank's records indicate that the Account Owner was *Mme.* (Mrs.) Rozalia Brzostek.

The CRT's Analysis

Admissibility of the Claims

The CRT has determined that the claims are admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules").

Identification of the Account Owner

The CRT concludes that the Claimants have not identified the Account Owner as their relative, Leon Brzostek. The CRT notes that the Claimants' relative's name does not match that of the Account Owner. The CRT further notes that the Claimants have not provided any substantiation that their relative opened the account under the alias Rozalia Brzostek, and that Claimant [REDACTED 2] and Claimant [REDACTED 4] did not identify the alias "Rozalia" in their IQs, which they submitted prior to the publication of the name "Rozalia." Additionally, the CRT notes that the Claimants' relatives' names, upon which the asserted alias was based, are documented as being "[REDACTED]" or "[REDACTED]" and "[REDACTED]," which contrast with the published spelling of the Account Owner's first name. Consequently, the CRT is unable to conclude that the Account Owner and the Claimants' relative are the same person.

With respect to Claimant [REDACTED 1]'s mother, the CRT concludes that Claimant [REDACTED 1] has not identified the Account Owner as her mother. The CRT notes that Claimant [REDACTED 1]'s mother's name, Rahel Lea Brzostek, does not match that of the Account Owner. The CRT further notes that Claimant [REDACTED 1] has not provided any substantiation that her mother used the first name Rozalia. Moreover, the CRT notes that after filing her claim, Claimant [REDACTED 1] stated that she considered it more likely that Rozalia was the alias of her uncle, Leon Brzostek, rather than her mother's alternative name. Consequently, the CRT is unable to conclude that the Account Owner and Claimant [REDACTED 1]'s mother are the same person.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimants may appeal this Denial to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision. Appeals should be delivered to the following address: Office of Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001 USA.

The Claimants should send appeals in writing to the above address and should include all reasons for the appeal. If more than one account has been denied in this Certified Denial, the Claimants should identify the Account Identification Number which forms the basis of the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

Scope of the Denial

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.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
7 June 2006