

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Accounts of Herman Chwat

Claim Number: 204932/NP^{1, 2}

This Certified Denial is based on the claim of [REDACTED], formerly [REDACTED], (“Claimant [REDACTED]”) to the published accounts of Herman Chwat (the “Account Owner”) at the [REDACTED] (the “Bank”).

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.³

On 7 August 2003, the Court approved an Award to [REDACTED], née [REDACTED] (“Claimant [REDACTED]”) (also representing her sister, [REDACTED]), [REDACTED], née [REDACTED] (“Claimant [REDACTED]”), [REDACTED] (“Claimant [REDACTED]”) (also representing his mother, [REDACTED]), and [REDACTED], née [REDACTED] (“Claimant [REDACTED]”) (together with Claimant [REDACTED], the “Claimants”) for three accounts held by the Account Owner at the Bank (the “August 2003 Award”).⁴ As noted in the August 2003 Award, Claimant [REDACTED] indicated that she is only related to the Account Owner through the marriage of her maternal uncle to the Account Owner’s sister-in-law. Similarly, Claimant [REDACTED] indicated that his mother, [REDACTED], is only related to the Account Owner through marriage. Therefore, the August 2003 Award concluded that Claimant

¹ Claimant [REDACTED] did not submit a timely Claim Form claiming the accounts of Herman Chwat to the CRT. However, in 1999 he submitted six Initial Questionnaires, numbered ENG-0130-037, ENG-0027-109, ENG-0025-118, ENG-0027-118, ENG-0032-046, and ENG-0138-119 to the Court in the United States. Although these Initial Questionnaires were not Claim Forms, 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). These Initial Questionnaires have been forwarded to the CRT and have been consolidated with Claim Number 204932, which is being treated as a timely claim to the accounts of Herman Chwat on this basis.

² Claimant [REDACTED] submitted an additional claim to the account of Chaim Sztajnberg (or Steinberg), which is also registered under the consolidated Claim Number 204932. The CRT will treat the claim to this account in a separate determination.

³ The CRT notes that Claimant [REDACTED] has not requested confidentiality. However, this Certified Denial refers to an earlier Award, which addressed the entitlement of claimants who did request confidentiality. Accordingly, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

⁴ See *In re Accounts of Herman Chwat* (approved on 7 August 2003).

[REDACTED] and [REDACTED] were not entitled to any portion of the total award amount. The August 2003 Award did not address the entitlement of Claimant [REDACTED] to these accounts. This Certified Denial concludes that Claimant [REDACTED] is also not entitled to any portion of the total award amount awarded to Claimant [REDACTED] and her sister, [REDACTED], Claimant [REDACTED], and Claimant [REDACTED] in the August 2003 Award.

Information Provided by the Claimants

Claimant [REDACTED]

Claimant [REDACTED] submitted a Claim Form, identifying the Account Owner as Herman Chwat, the uncle of his step-mother, [REDACTED], née [REDACTED]. In a telephone conversation with the CRT on 29 August 2005, Claimant [REDACTED] explained that his mother, [REDACTED], née [REDACTED], died when he was eight years old, and that his father, [REDACTED], subsequently married [REDACTED], who raised Claimant [REDACTED], but never formally adopted him.

Claimant [REDACTED] further stated that Herman Chwat was born in Radom, Poland, and was married to [REDACTED]. Moreover, Claimant [REDACTED] indicated that Herman Chwat, who was Jewish, was the owner of a successful silk factory in Lodz, Poland. Claimant [REDACTED] further indicated that Herman Chwat perished in Treblinka in August 1942.

Claimant [REDACTED] submitted documents in support of his claim, including: (1) a copy of [REDACTED]'s and [REDACTED]'s marriage certificate, dated 6 April 1935, identifying [REDACTED]'s father as Herszek Chwat; (2) a copy of an application for identity papers, filed by [REDACTED] with the Jewish Council of Radom, dated 31 March 1941; and (3) a copy of Claimant [REDACTED]'s own application for identity papers, also filed with the Jewish Council of Radom, and dated 31 March 1941, indicating that he was the son of [REDACTED] and [REDACTED]. Claimant [REDACTED] indicated that he was born on 31 May 1925 in Radom.

Claimant [REDACTED] previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Herman Chwat.

Claimant [REDACTED]

As noted in the August 2003 Award, Claimant [REDACTED] submitted two Claim Forms identifying the Account Owner as her father's uncle, Herman (or Herszek or Hirszek) Chwat, who was born on 3 May 1883 in Radom, and was married to [REDACTED]. Claimant [REDACTED] indicated that her great-uncle, who was Jewish, had no children, and was the owner of a successful textile manufacturing factory, located in Lodz. Claimant [REDACTED] further stated that her great-uncle resided in Lodz between 1933 and 1940. According to Claimant [REDACTED], her great-uncle fled from Lodz to Radom, where he met his brother, [REDACTED], and his brother's daughter, Claimant [REDACTED], and told them about deposits in Swiss bank accounts. Claimant [REDACTED] further indicated that her great-uncle

and his wife were deported in 1942 to the Treblinka concentration camp, where they both perished. Claimant [REDACTED] indicated that she was born on 15 September 1944 in Poland. Claimant [REDACTED] is representing [REDACTED], her sister, who was born on 26 December 1938 in Poland.

Claimant [REDACTED]

As noted in the August 2003 Award, Claimant [REDACTED] submitted a Claim Form identifying the Account Owner as her maternal aunt's brother-in-law, Herman Chwat, who was born and lived in Lodz, was married to [REDACTED], and was the owner of a factory. Claimant [REDACTED] stated that Herman Chwat did not have any children. Claimant [REDACTED] further stated that, in 1941, Herman Chwat was deported together with his wife to a concentration camp, where he perished.

Claimant [REDACTED]

As noted in the August 2003 Award, Claimant [REDACTED] submitted a Claim Form identifying the Account Owner as his father's uncle, Herman Chwat, who was born on 3 May 1883 in Radom, and was married to [REDACTED]. Claimant [REDACTED] indicated that his great-uncle, who was Jewish, resided at Pilsudskiego 72 in Lodz. The remaining information provided by Claimant [REDACTED] matched that given by Claimant [REDACTED]. Claimant [REDACTED] indicated that he was born on 3 September 1950 in Warsaw, Poland. Claimant [REDACTED] is representing [REDACTED], née [REDACTED], his mother, who was born on 7 October 1915, also in Warsaw.

Claimant [REDACTED]

As noted in the August 2003 Award, Claimant [REDACTED] submitted a Claim Form identifying the Account Owner as her paternal uncle, Herman (or Herszek or Hirszek) Chwat, who was born on 3 May 1883 in Radom, and was married to [REDACTED]. In addition, Claimant [REDACTED] provided the same information about Herman Chwat as Claimant [REDACTED] and Claimant [REDACTED]. Claimant [REDACTED] indicated that she was born on 6 May 1921 in Poland.

Information Available in the Bank's Records

As noted in the August 2003 Award, the CRT determined that the Account Owner held two safe deposit boxes, numbered 1802 and 1803, and a demand deposit account, all of which were closed on an unknown date, as well as a custody account, numbered 33896, which was closed on 22 June 1939. In the August 2003 Award, the CRT determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the two safe deposit boxes and of the demand deposit account, and accordingly awarded these accounts to Claimant [REDACTED], [REDACTED], Claimant [REDACTED], and Claimant [REDACTED]. In the August 2003 Award, the CRT did not reach a decision regarding the custody account, pending further

consideration as to whether or not the Account Owner or his heirs received the proceeds of that account.

The CRT's Analysis

Identification of the Account Owner

In the August 2003 Award, the CRT determined that Claimant [REDACTED], Claimant [REDACTED], Claimant [REDACTED], and Claimant [REDACTED] plausibly identified the Account Owner.

The CRT concludes that Claimant [REDACTED] has also plausibly identified the Account Owner. Claimant [REDACTED]'s relative's name and city and country of residence match the published name and city and country of residence of the Account Owner.

The CRT notes that the name Herman Chwat 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"). Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Herman Chwat, and indicates that he was born in Radom, Poland, which matches the information about the Account Owner provided by Claimant [REDACTED]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT further notes that Claimant [REDACTED] filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Herman Chwat, prior to the publication of the ICEP List. This indicates that Claimant [REDACTED] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED].

Moreover, the CRT notes that the information provided by Claimant [REDACTED] matches the information provided by Claimant [REDACTED], Claimant [REDACTED], Claimant [REDACTED], and Claimant [REDACTED]. Accordingly, the CRT determines that Claimant [REDACTED]'s relative is the same person as Claimant [REDACTED]'s, Claimant [REDACTED]'s, Claimant [REDACTED]'s and Claimant [REDACTED]'s relative, which in turn establishes that Claimant [REDACTED] has identified the Account Owner. Finally, the CRT notes that the other claim to these accounts was disconfirmed because that claimant provided inconsistent biographical information and a different spelling of her relative's last name.

Status of the Account Owner as a Victim of Nazi Persecution

In the August 2003 Award, the CRT determined that Claimant [REDACTED], Claimant [REDACTED], Claimant [REDACTED], and Claimant [REDACTED] made a plausible

showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED] also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED] indicated that the Account Owner was Jewish, and that he was killed in Treblinka.

The Claimants' Relationships to the Account Owner

In the August 2003 Award, the CRT determined that Claimant [REDACTED], Claimant [REDACTED], Claimant [REDACTED], and Claimant [REDACTED] plausibly demonstrated that they are related to the Account Owner.

Similarly, Claimant [REDACTED] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was his step-mother's uncle.

The CRT notes that Claimant [REDACTED] filed an Initial Questionnaire with the Court in 1999, identifying this relationship to the Account Owner, prior to the publication of the ICEP List; and that Claimant [REDACTED] also identified information that matches information contained in the Yad Vashem records. The CRT further notes that Claimant [REDACTED] submitted a copy of [REDACTED]'s and [REDACTED]'s marriage certificate, identifying [REDACTED]'s father as Herszek Chwat, and a copy of Claimant [REDACTED]'s own application for identity papers, filed with the Jewish Council of Radom, indicating that he was the son of [REDACTED] and [REDACTED]. These documents provide independent verification that Claimant [REDACTED]'s relatives bore the same family name as the Account Owner and that they resided in Poland. 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 Claimant [REDACTED] as a family member, and all of this information supports the plausibility that Claimant [REDACTED] is related to the Account Owner, as he has asserted in his Initial Questionnaire and Claim Form.

The Issue of Who Received the Proceeds

As noted above, in the August 2003 Award, the CRT determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the demand deposit account and the two safe deposit boxes held at the Bank.

With regard to the custody account closed on 22 June 1939, in a separate decision issued concurrently with this Denial, the CRT concluded that the Account Owner closed the account and received the proceeds himself.

Amount of the Award

In the August 2003 Award, the CRT determined that the total award amount was 57,750.00 Swiss Francs ("SF").

Entitlement to the Accounts

As noted in the August 2003 Award, 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. Therefore, the 2003 Award concluded that Claimant [REDACTED] and her sister, [REDACTED], whom Claimant [REDACTED] represented, were each entitled to one-sixth of the total award amount, and Claimant [REDACTED] and Claimant [REDACTED] were each entitled to one-third of the total award amount. Moreover, the 2003 Award concluded that Claimant [REDACTED] and Claimant [REDACTED]'s mother, who are both related to the Account Owner by marriage only, were not entitled to any portion of the award amount.

The CRT now determines that Claimant [REDACTED] also is not entitled to any portion of the total award amount, given that he is related to the Account Owner by marriage only. Accordingly, the August 2003 Award correctly awarded the total award amount to Claimant [REDACTED] and her sister, [REDACTED], Claimant [REDACTED], and Claimant [REDACTED] only.

Right of Appeal

Pursuant to Article 30 of the Rules, Claimant [REDACTED] 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.

Claimant [REDACTED] should send appeals in writing to the above address and should include all reasons for 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 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 Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
3 March 2006