

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Account of *Schenker & Co. Internationale Speditions - AG*

Claim Number: 752554/BW¹

This Certified Denial is based on the claim of [REDACTED] (the "Claimant") to the account of *Schenker & Co.*² This Denial is to the published account of *Schenker & Co. Internationale Speditions - AG* (the "Account Owner").

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 ATAG Ernst & Young claim form in 1998, in which she stated that her maternal uncle, [REDACTED], who was born in 1884, was a director of *Schenker & Co.*, an international transportation company in Belgrade, Yugoslavia (now Serbia). The Claimant stated that while the company was based in Istanbul, Turkey, her uncle, who was Jewish, was a director at the Belgrade branch. The Claimant stated that in 1938, her uncle announced his intention to emigrate to Chile, and for that reason opened a Swiss bank account under the company's name. The Claimant further stated that her uncle died in 1942 in Belgrade, and that his wife and daughter were deported and presumably perished during the Second World War. The Claimant indicated that she was born on 24 May 1930 in Győr, Hungary.

¹ [REDACTED] (the "Claimant") did not submit a CRT Claim Form. However, in 1998 she submitted an ATAG Ernst & Young claim form ("ATAG Form"), numbered C-BUD-D-81-097-130-422, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland ("CRT I"), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons ("ICEP"), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process as defined in the Rules Governing the Claims Resolution Process, as amended (the "Rules"). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant's ATAG Form was forwarded to the CRT and has been assigned Claim Number 752554.

² In this ATAG Form, the Claimant also claimed the unpublished account of Marcell Ehrenfeld. The CRT did not locate an account belonging to Marcell Ehrenfeld 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.

The Claimant submitted documents in support of her claim, including a copy of her birth certificate, which indicates that her mother's name was [REDACTED].

Information Available in the Bank's Records

The Bank's records indicate that the Account Owner was *Schenker & Co. Internationale Speditions - AG*, which was located in Budapest, Hungary. The Bank's records also indicate the account balance and the closing date of the account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has identified the name and business of the Account Owner as well as its status as a corporate entity. The name of the company submitted by the Claimant matches the published name of the Account Owner. The information provided by the Claimant differs, however, from the published information about the Account Owner available in the Bank's records. Specifically, the Bank's records indicate that the Account Owner was located in Budapest, while the Claimant has identified the Belgrade branch of the company.³

The CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by *Schenker & Co.*, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that a company identified on the ICEP List as owning a Swiss bank account bears the same name as the company for which her uncle was a director, but rather on a direct relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that the company or 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 Claimant's Relationship to the Account Owner and Entitlement to the Account

According to Article 23(3) of the Rules, if the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.), the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. In this case the Claimant has plausibly established that her uncle was a director of the Belgrade branch of the Account Owner, but has not established that her uncle had any ownership rights over the assets of the Account Owner entity, located in Budapest. Nor is there any indication in the Bank's records that the Claimant's uncle held an ownership interest over these assets. Moreover, the CRT notes that this account was originally awarded to another claimant in a separate decision, who presented

³ The CRT notes that the Vienna-based shipping company *Schenker & Co* had various branches by 1913, including one in Belgrade, Yugoslavia, and one in Budapest, Hungary. See <http://www.schenker.at/english/company/history.html>.

information which allowed the CRT to initially conclude that the relative of this other claimant had a plausible ownership interest over the assets of the Account Owner. The CRT notes that, subsequent to the approval of this decision, a third party contacted the Office of the Special Master and submitted information that indicates the assets of the Account Owner entity were actually owned by a successor corporate entity.

Given the above, and given that the Claimant in this case has not established that her uncle had any ownership rights over the assets of the Account Owner, the CRT concludes that the Claimant is not entitled to the proceeds of the claimed account.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant may appeal this Denial to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based on 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 Award Denial.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been denied in this Certified Award Denial, the Claimant should identify 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 September 2010