

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Dr. [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Max Cohn (Power of Attorney Holder Erna Cohn)¹

Claim Number: 213788/MG; 213949/MG^{2,3,4,5}

This Certified Denial is based on the claim of Dr. [REDACTED 1], née [REDACTED], (the “Claimant”) to the accounts of Erna Cohn, and Henrietta Cohen. The CRT did not locate an account belonging to Henrietta Cohen 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”). This denial is to the published accounts of Max Cohn (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 claimant, any relatives of the claimant other than the account owner, and the bank are redacted.

¹ The accounts at issue were published under the names Max Cohn and Erna Cohn of Berlin, Germany, on the 2001 List of Swiss Bank Accounts identified in the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”). After careful review of the Bank’s records, the CRT has determined that the Account Owner was actually Max Cohn, and that Erna Cohn was actually the Power of Attorney Holder to the accounts.

² The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 213798 and 213939. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Numbers 204121 and 213948, respectively.

³ The Claimant submitted additional claims to the accounts of Werner Cohn, Weinstein family, Herman Cohn, Johanna Cohn and Nathanael Cohen, which are registered under the Claim Numbers 204121, 213789, 213799, 213938 and 213948, respectively. The CRT will treat the claims to these accounts in separate decisions.

⁴ 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 three claims of the Claimant in one proceeding.

⁵ The Claimant submitted Initial Questionnaires with the Court in 1999 and Claim Form to the CRT. The CRT is treating the Initial Questionnaires and the Claim Forms under the consolidated Claim Numbers 204121, 213788, 213789, 213799, 213938, 213948 and 213949.

Information Provided by the Claimant

The Claimant submitted a Claim Form asserting that her mother, Erna Cohn, née Siebenberg, who was born on 17 February 1912 in Germany, and was married to [REDACTED] on 26 May 1942 in New York, New York, the United States, owned a Swiss bank account. According to the Claimant, her mother, who was Jewish, resided in Bad Kreuznach, Germany until 1933, when she left to the United States. According to the Claimant, her mother died on 29 December 1981 in New York. The Claimant indicated that she was born on 5 December 1948 in New York.

The Claimant submitted documents in support of her application, including: (1) her parents' marriage certificate, which indicates that her mother's maiden name is Siebenberg; and (2) her mother's death certificate.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, Erna Cohn. The auditors who carried out the ICEP Investigation reported two accounts whose power of attorney holder's name matches that provided by the Claimant. Each account is identified below by its Account Identification Number, which is a number assigned to the account by the ICEP auditors for tracking purposes.

Accounts 5033391 and 5024859

The Bank's records indicate that the Account Owner was Max Cohn, who resided in Berlin, Germany and that the Power of Attorney Holder was Erna Cohn (Cornitzer), who resided in Berlin. The Bank's records also indicate the Account Owner's street address and the Power of Attorney Holder's maiden name, and the name of her spouse. Furthermore, the bank records indicate the date of closing of the accounts at issue. Finally, the bank records contain the Account Owner's and the Power of Attorney Holder's signature samples.

The CRT's Analysis

Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules.

Identification of the Account Owner

The CRT concludes that the Claimant has not identified the Power of Attorney Holder as her relative. Although the married name of her mother matches to the published married name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the published and unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant stated that her mother's maiden name was Siebenberg and that she was married to [REDACTED]. In contrast, the bank records show that

the Power of Attorney Holder's maiden name was different, and that she was married to someone else. Moreover, while the Power of Attorney Holder resided in Berlin, the Claimant stated that her mother resided in Bad Kreuznach, which is over 400 kilometers from Berlin. Consequently, the CRT concludes that the Power of Attorney Holder and the Claimant's mother are not the same person.

The CRT also notes that the Claimant did not identify the Account Owner as her relative, and that under Swiss law, a power of attorney holder is not considered to be the owner of an account. After a power of attorney holder dies, his or her powers in an account no longer exist, and they do not pass to his or her heirs. Therefore, even if the Claimant had identified the Power of Attorney Holder, but not the Account Owner, as her relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the Power of Attorney Holder and the Account Owner were related.

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. Appeals should be delivered to the following address: Office of the Special Master, c/o Claims Resolution Tribunal, P.O. Box 9564, 8036 Zurich, Switzerland.

The Claimant 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 Claimant should identify the Account Identification Number that 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 Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
13 October 2004