

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Accounts of Otilie Drucka-Lubecka

Claim Numbers: 208041/MC; 735389/MC¹

This Certified Denial is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of David Najberger and Otila Drucka-Lubecka. This Award is to the published accounts of *Fürstin* (Princess) Otilie Drucka-Lubecka (the “Account Owner”), over which Curt Pawlik (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of 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 have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form and an Initial Questionnaire (“IQ”) identifying the Account Owner, Otila Drucka-Lubecka, née Woler, as the former employer of her grandfather, father and brothers. The Claimant stated that Otila Drucka-Lubecka, who was Jewish but converted to Catholicism, belonged to the Polish aristocracy, and resided and owned property in the village of Dlon, Poland prior to the Second World War. The Claimant stated that Otila Drucka-Lubecka also owned property in Switzerland, to which she sent part of her possessions prior to the German invasion of Poland. The Claimant explained that in 1940 Otila Drucka-Lubecka was expelled from her property in Poland by the Nazis, and fled to Switzerland, where she passed away on an unspecified date. The Claimant stated that her family members, who were Jewish, had unpaid income and pension payments owed to them by Otila Drucka-Lubecka, which they never received.

The Claimant indicated that she was born on 20 April 1930 in Dlon-Miejska Gorka, Poland.

¹ In 1999 [REDACTED] submitted an Initial Questionnaire (“IQ”), numbered POL-0035-071, to the Court in the United States. Although this IQ was not a Claim Form, 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). The IQ was forwarded to the CRT and has been assigned claim number 735389.

Information Available in the Bank's Records

The Bank's records indicate that the Account Owner was *Fürstin* (Princess) Otilie Drucka-Lubecka, who resided in Dlon, Poland. In addition, the Bank's records indicate that the Power of Attorney Holder was Curt Pawlik. These records also indicate the Power of Attorney Holder's street address and city and country of residence.

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 Claimant in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's relatives' employer's name and city and country of residence match the published name, city and country of residence of the Account Owner.² The Claimant also identified the fact that the Account Owner had an aristocratic title, which matches unpublished information about the Account Owner contained in the Bank's records. The CRT notes that there are no other claims to these accounts.

The Claimant's Relationship to the Account Owner

The Claimant explicitly stated that the Account Owner was her relatives' employer, and that they were not related to the Account Owner, thus demonstrating that the Claimant and the represented parties are not related to the Account Owner by blood or by marriage.

Entitlement to the Account

In this case, the Claimant identified the Account Owner as her relatives' employer. The CRT notes that there is no indication in the Bank's record that there were other beneficiaries to the account other than the Account Owner and the Power of Attorney Holder. Therefore, in the absence of a family relationship between the Claimant and the Account Owner, or a will or testamentary documents indicating that the Claimant is a beneficiary of the Account Owner, the Claimant is not entitled to the Account Owners' accounts.

The CRT notes that the Claimant stated that the Account Owner owed her relatives unpaid income and pension payments. However, the Claimant did not provide any documentation evidencing this fact. Moreover, even if the Claimant's relatives were owed money by the

² The CRT notes that Otilie and Otila are alternative spellings of the same name.

Account Owner, this fact alone does not grant them, absent a family relationship or a will or other testamentary document, entitlement rights over the Account Owner's accounts.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant may appeal this Denial 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 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
30 August 2010