

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]
represented by Egon Mittelman and Peter Volko

in re Account of Rudolf Eckenstein

Claim Numbers: 209889/UM; 219113/UM

This Certified Denial is based upon the claims of [REDACTED 1] (the “Claimant”) to the unpublished account of Rudolf Eckenstein (the “Account Owner”), of which the Claimant was the Beneficial Owner, at the Basel branch of the [REDACTED] (the “Bank”).

All awards 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 two Claim Forms indicating that was the Beneficial Owner of an account owned by the Account Owner, Rudolf Eckenstein. The Claimant stated that he was born in Secovce, Czechoslovakia (now Slovakia) on 30 May 1915, and that he was married to his first wife, [REDACTED], née [REDACTED], in 1939. The Claimant, who is Jewish, further stated that he lived in Secovce, where he ran a large textile wholesale distribution company with his father, [REDACTED], and his brother-in-law, Vojtech Schwartz. In addition, the Claimant stated that this company was particularly profitable from 1938 until 1941. Moreover, the Claimant stated that the company was subsequently “aryanized” and taken over by Juray Girman, the director of the local branch of the Dunajska Bank (later renamed Sedliacka Bank), who permitted the Claimant and his brother-in-law to remain involved in the company’s management, and also aided them in obtaining false documents in order to avoid Nazi persecution. According to the Claimant, [REDACTED] also introduced the Claimant and his brother-in-law to Ing. [REDACTED], the director of the Sedliacka Bank in Bratislava, Czechoslovakia (now Slovakia); and Ing. [REDACTED], in turn, introduced the two men to Rudolf Eckenstein, who owned the *Malz Fabriken Eckenstein & Co.*, which included two malt factories located in Nitra, Czechoslovakia (now Slovakia) and Basel, Switzerland. The Claimant further stated that Rudolf Eckenstein was a well-connected businessman, who represented Swiss interests in Slovakia. In addition, the Claimant stated that Rudolf Eckenstein needed Slovak currency for his business dealings in that country, and that the Claimant, his brother-in-law and Rudolf Eckenstein therefore reached an agreement, whereby the Claimant and his brother-in-law

supplied Rudolf Eckenstein with Slovak Crowns, and Rudolf Eckenstein deposited Swiss Francs (“SF”) for the Claimant and his brother-in-law at the Bank. The Claimant indicated that these transfers were arranged via *Ing.* [REDACTED], with the Claimant and his brother-in-law bringing the money to Dr. Kristofkova, one of *Ing.* [REDACTED]’s employees. The Claimant specified that Rudolf Eckenstein deposited a total of SF 200,000.00 at the Bank pursuant to this arrangement. The Claimant also explained that he never received receipts containing his or his brother-in-law’s name for these transactions, because possessing such documentation could have been punishable by death, and that the parties therefore agreed that the Claimant would instead receive confirmations from the Bank that the amounts were received and deposited in the Bank by Rudolf Eckenstein. The Claimant stated that this arrangement continued until approximately April 1943.

In addition, the Claimant stated that he and his relatives subsequently spent several years in hiding in order to avoid Nazi persecution, including several months in the Slovakian woods. Moreover, the Claimant stated that he returned to Secovce after the Second World War. The Claimant further stated that he personally traveled to Basel in 1946 in an effort to retrieve the money deposited in the Bank, and that he visited both Rudolf Eckenstein and the Bank in order to do so. (The Claimant specified that Rudolf Eckenstein lived at Streitgasse 8 in Basel.) However, according to the Claimant, the Bank acknowledged that the funds existed, but refused to release them without approval from Rudolf Eckenstein; and Mr. Eckenstein, in turn, refused to approve their release without a signature from *Ing.* [REDACTED]. The Claimant further explained that *Ing.* [REDACTED] was arrested in Slovakia in 1947, and that it was therefore impossible to obtain his signature. Moreover, the Claimant stated that he and his family subsequently moved to Paris, France, and later to Tel Aviv, Israel. Finally, the Claimant indicated that he now resides in Beverly Hills, California, the United States.

The Claimant submitted numerous documents, including excerpts from a memoir by Emanuel Frieder, published under the title, *To Deliver Their Souls*, which contains references to the [REDACTED]’s textile manufacturing business, stating that its owners were able to manage the business during the Second World War due to help from the company’s “aryanizers”; a copy of a publication regarding malt production, issued in Basel in 1890, written by Rudolf Eckenstein; a copy of the Claimant’s father’s work permit, issued in Secovce in 1943, stating that he was permitted to work as an adviser for *Girman & Co.* until 31 December 1943; a statement by [REDACTED 2], the Claimant’s sister-in-law, stating that she personally handed money to the Claimant on various occasions between 1941 and 1943, and that she was told that this would be taken to the Dunajska Bank, and subsequently transferred to Switzerland; a copy of an undated article, published in the *Pravda* newspaper, stating that the Slovak Finance Ministry was conducting an audit of the Farmers’ Bank, and noting that the audit threatened to reveal that Mr. [REDACTED], the managing director of that bank, had “millions” in Swiss bank accounts, as well as how, and with whose aid, the money was transferred there; an entry from a court in Bratislava, indicating that criminal proceedings were initiated against *Ing.* [REDACTED]; and correspondence between Rudolf Eckenstein, *Ing.* Jan Havlik, Sedlecka Bank, and the Bank, further described below. The Claimant represents his sister-in-law, [REDACTED 2], and [REDACTED 3], an unidentified relative.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, and an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account opened by Rudolf Eckenstein on his behalf.

Information Available in the Bank's Records

The Bank's records consist of documents submitted to the CRT by the Claimant. These include a letter from Sedliacka Bank, dated 23 March 1943, to an unidentified recipient, stating that it transferred SF 119,700.00 to the account of Rudolf Eckenstein at the Bank. This letter also contains a header indicating that this occurred in connection with the purchase of 700 shares of *Eckenstein & Co.* In addition, the documents include a letter from Sedliacka Banka to the Bank, dated 25 March 1943, stating that it had transferred SF 119,700.00 to the Bank for the benefit of Rudolf Eckenstein, and asking for a confirmation that this was received. The Claimant also submitted a copy of a telegram, sent from Rudolf Eckenstein to *Ing.* [REDACTED], stating that the purchase value of certain unidentified stocks had arrived, and that "the matter" was therefore sorted, and that Eckenstein's power of attorney form of 27 January 1943 was therefore in force. Moreover, the Claimant submitted a letter from Rudolf Eckenstein to *Ing.* [REDACTED], dated 29 March 1943 and sent from Basel, Switzerland, stating that the Bank transferred the agreed-upon purchase amount of SF 119,700.00 to him, and that the transaction was therefore complete. In the letter, Rudolf Eckenstein further stated that 700 shares of the *Malzfabrik Eckenstein & Co.* now belonged exclusively to *Ing.* [REDACTED]. Finally, in this letter, Rudolf Eckenstein again referenced a power of attorney form, given by him to *Ing.* [REDACTED] on 27 January 1943, stating that this was now in effect. In addition, the Claimant submitted the referenced power of attorney form, which is signed by Rudolf Eckenstein, and authorizes the Sedliacka Bank to withdraw 700 shares of the *Malzfabrik Eckenstein & Co.*, belonging to Eckenstein, from a custody account, and to transfer them to the *Nitraer Mühlen- & Schälwerke A.G.* as soon as the amount of SF 119,700.00 was transferred to Eckenstein at the Bank. The Claimant additionally submitted a letter from Sedliacka Bank to an unidentified recipient, dated 1 April 1943, stating that it had received a message from the Bank, which read, "your twenty-fourth sum of SF 119,090.80 transferred to Rudolf Eckenstein today." This letter from Sedliacka Bank also includes a header indicating that this occurred in connection with the purchase of 700 shares of *Eckenstein & Co.*

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Rudolf Eckenstein during their investigation of the Bank. The Bank's documents were obtained by the Claimant's representative during archival research conducted in connection with his claims, and were forwarded to the CRT.

The CRT's Analysis

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that he, his father, and his brother-in-law were Victims of Nazi Persecution. The Claimant stated that he and his relatives were Jewish, that their company was “aryanized,” that they were permitted to participate in the company’s management only under heavily regulated circumstances, and that they subsequently lived in hiding until the end of the Second World War. The Claimant also submitted a copy of his father’s work permit, demonstrating that his company was “aryanized,” and indicating that he was permitted to work under limited circumstances only. In addition, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED 1], and indicates that his date of birth was 30 May 1915. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner as Rudolf Eckenstein. The individual’s name matches the name of the Account Owner identified in the correspondence between the Account Owner, *Ing.* [REDACTED], the Bank and Sedliacka Bank. The Claimant indicated that the Account Owner was the owner of *Eckenstein & Co.* in Nitra, Czechoslovakia (now Slovakia), and that he resided in Basel, Switzerland, which matches information about the Account Owner included in the correspondence between the Account Owner, *Ing.* [REDACTED], the Bank and Sedliacka Bank.

In support of his claim, the Claimant submitted documents, including a copy of a publication issued in Basel in 1890, written by Rudolf Eckenstein, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the communications with the Bank as the name and city of residence of the Account Owner. The CRT notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

The Claimant’s Relationship to the Account Owner

The Claimant stated that the Account Owner was Rudolf Eckenstein, a business associate of *Ing.* [REDACTED], the director of the Sedliacka Bank, whose employee was put in charge of the “aryanization” of the company run by the Claimant and his relatives. The Claimant indicated that he had no familial relationship with Rudolf Eckenstein.

Entitlement to the Account

According to Article 23 (1)(a)-(g) of the Rules, the CRT may issue an award to relatives of the Account Owner, whether by blood or by marriage, who have submitted a claim. Moreover, according to Article 23(2), if a claimant has submitted the Account Owner’s will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution

among any beneficiaries named in the will or other inheritance documents, who have submitted a claim. In this case, the Claimant indicated that he had no familial relationship with the Account Owner. Moreover, the Claimant was not able to provide any inheritance documents pertaining to the Account Owner that identify him or his relatives as beneficiaries. Moreover, the CRT notes that the documentation submitted by the Claimant were not in his personal possession, but were discovered by the Claimant's representative during archival research conducted in connection with his claims. The CRT further notes that the apparent transfer of a lump sum specified in the documentation is inconsistent with the Claimant's indication that the transactions involving Rudolf Eckenstein consisted of multiple transfers and exchanges of funds totaling SF 200,000.00 over the course of several years and that at no time was a purchase of Eckenstein shares involved. Therefore, the CRT determines that it is not plausible that the documentation submitted by the Claimant relates to an account held by the Account Owner on the Claimant's or his relatives' behalf. Accordingly, the Claimant is not entitled to 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. 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 his 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
30 December 2004