

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Account of Hermann Falk (Power of Attorney Holder)

Claim Number: 705450/MC¹

This Certified Denial is based upon the claim of [REDACTED] (the “Claimant”) to the account of Gertrud Falk, née Raphaelsohn.² This Denial is to an account over which Hermann Falk (the “Power of Attorney Holder”) held power of attorney, 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 have been redacted.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying the Power of Attorney Holder as his grandfather, Hermann Falk. The Claimant stated that his grandfather, who was Jewish, was born in 1875, completed his medical studies in 1901 in Munich, Germany, and was an obstetrician. According to the Claimant, Dr. Hermann Falk’s family originated from Breslau, Germany (today Wroclaw, Poland), and Dr. Hermann Falk settled in that city with his wife, [REDACTED], née [REDACTED], following their marriage on 7 November 1910. The Claimant also stated that Dr. Hermann Falk served as a medical officer in the First World War,

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 he submitted three Initial Questionnaires (“IQs”), numbered ENG-0668-105, ENG-0668-106, and ENG-0668-107 to the Court in the United States. Although these IQ 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). The IQs were forwarded to the CRT and have been assigned claim numbers 705449, 787290, and 705450, respectively. In separate decisions, the Claimant was awarded the accounts of Franziska Falk and Walter Freund. See *In re Account of Franziska Falk* (approved on 12 May 2006) and *In re Accounts of Walter Freund* (approved on 8 October 2008). In separate decisions dated 6 August 2007, 31 August 2007, and 29 September 2008, the CRT treated the Claimant’s claims to the account of Martin Bischofswerder, Sigmund Samuel Feist, Toni Feist, Gertrud Falk, and Joseph Falk.

² The CRT did not locate an account belonging to Gertrud Falk, née Raphaelsohn, 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”).

and that he had two children. According to the Claimant, his grandfather died of an illness on 5 December 1932. The Claimant also stated that Dr. Hermann Falk's wife, [REDACTED], was deported in 1943 and subsequently perished in Auschwitz.

The Claimant indicated that he was born on 11 August 1962.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney agreement and three printouts from the Bank's database. The records identify the owner of the account and show that Hermann Falk, who held power of attorney over the account, resided in Breslau. The Bank's records do not contain any evidence to suggest that the owner of the account was related to the power of attorney holder, Hermann Falk.

The CRT's Analysis

Identification of the Account Owner and the Power of Attorney Holder

The Claimant has plausibly identified the Power of Attorney Holder. The Claimant's grandfather's name matches the published name of power of attorney holder Hermann Falk. The Claimant stated that after 1910, his grandfather resided in Breslau, which matches the unpublished city of residence of the Power of Attorney Holder. The CRT notes that the Claimant did not identify the Account Owner.

Status of the Power of Attorney Holder as a Victim of Nazi Persecution

The CRT notes that the Claimant stated that his grandfather died of an illness on 5 December 1932, prior to the Nazis' rise to power in Germany in January 1933. However, the Claimant stated that his grandfather's wife and likely direct heir, [REDACTED], was deported in 1943 and subsequently perished in Auschwitz.

The Claimant's Relationship to the Account Owner and Entitlement to the Account

The CRT notes that the Claimant plausibly identified the Power of Attorney Holder as his grandfather, but did not identify the owner of the account. The CRT notes 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 account owner, the Claimant would not have been entitled to the account, because there was no evidence in the Bank's records that the Power of Attorney Holder was related to the owner of the account.

In the absence of a family relationship between the Claimant and the account owner, or between the account owner and the Power of Attorney Holder, or a will or testamentary documents

indicating that the Claimant is a beneficiary of the account owner, the CRT concludes that the Claimant is not entitled to the account at issue.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant may appeal this decision 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 decision.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant should identify the account, including, where available, 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