

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

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

**in re Accounts of Stanislaw (Steven) Feigenbaum (Fay) and Irene Feigenbaum**

Claim Number: 600888/MC<sup>1</sup>

This Certified Denial is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the unpublished accounts of Stanislaw (Steven) Feigenbaum (Fay) (“Account Owner Stanislaw Feigenbaum”) and Irene Feigenbaum (“Account Owner Irene Feigenbaum”) (together the “Account Owners”) at the [REDACTED] (“Bank I”), and to an account of Account Owner Stanislaw Feigenbaum at the [REDACTED] (“Bank II”) (together the “Banks”).

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 owners, and the banks have been redacted.

## **Information Provided by the Claimant**

The Claimant submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owners as her father, Stanislaw (Steven) Feigenbaum (Fay), who was born on 6 April 1913 in Warsaw, Poland, and her mother, Irene Feigenbaum, who was born on 10 April 1914 in Lodz, Poland. The Claimant stated that her father, who was an electrical engineer, resided in Warsaw until 1932, when he moved to Zurich, Switzerland, and that her mother moved to Zurich in 1933. According to the Claimant, her parents were married on 2 January 1937, and that year they returned to Warsaw, where they remained until 1939, when they returned to Zurich. The Claimant stated that her paternal grandfather was [REDACTED], who, at the time of his death in 1946 or 1947, resided in Zurich. The Claimant explained that her parents resided in Zurich until 1948, when they emigrated to the United States, where her father officially changed his name to Steven S. Fay. The Claimant stated that her father died on 1 February 1985 in New Kingston, New York, and that her mother died on 10 September 1986 in New York, New York.

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<sup>1</sup> The Claimant submitted a claim, numbered B-00521, on 12 January 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600888. In a separate decision, the Claimant was awarded an account belonging to Jegosyja Feigenbaum. See *In re Account of Jegosyja Feigenbaum* (approved on 31 December 2003).

In support of her claim, the Claimant submitted documents, including:

- (1) her father's death certificate, which identifies him as Steven S. Fay and his wife as Irene Fay, née Mirsky, and which indicates that he resided in New York, and which contains the name of the Claimant; and
- (2) her father's Polish passport, identifying him as Stanislaw Fay and indicating that he was domiciled in Switzerland.

The Claimant also submitted documents pertaining to accounts held at Bank I and Bank II, which are described in detail below.

The Claimant indicated that she was born on 30 July 1951 in New York, New York. The Claimant is representing her sister, [REDACTED 2], who was born on 13 June 1945 in Zurich.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Stanislaus (Steven) Feigenbaum (Fay).

### **Information Available in the Banks' Records**

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 Stanislaus (Steven) Feigenbaum (Fay) or Irene Feigenbaum during their investigation of Bank I. Bank I's documents were obtained from Bank I by the HCPO on the Claimant's behalf and were forwarded to the CRT. The document relating to an account at Bank II was submitted by the Claimant to the CRT.

#### Bank I

Bank I's records include a copy of a letter from Bank I to the HCPO, dated 1 March 2001, that enclosed documents, including a customer list, a list of closed accounts, microfiche records providing an overview of an account, and a customer card. The Claimant also submitted correspondence and a standing payment order regarding one of the accounts at Bank I.

These documents show the existence of four accounts at Bank I.

The first account is documented by an entry in a customer list for Stanislaw Feigenbaum of Zurich and refers to a custody account numbered 59338. This entry refers to a "*Faustpfandrecht*" in favor of the late [REDACTED], which means that the assets in the custody account served as collateral in favor of the Estate of [REDACTED]. According to a notation on the list, this account was closed on 15 February 1949. This account is also included in a list of accounts closed by 31 December 1951 ("*Nummernverzeichnis der abgelegten Depots bis 31. Dezember 1951*"). The CRT notes that, according to information provided by the Claimant, and as detailed in a previous decision, in which the Claimant was awarded an account belonging to

her grandfather, [REDACTED], [REDACTED] resided in Zurich at the time of his death, either in 1946 or 1947.<sup>2</sup>

The second account is documented by two customer cards that show that Stanislaw and Irene Feigenbaum of Zurich jointly held an account, the type of which is not specified, which was numbered 318038 (the number is only partly legible). The account cards show that this account was closed on 12 March 1947. According to Bank 1's letter of 1 March 2001, this account was previously frozen on 14 June 1941 pursuant to the US Freeze of Swiss Assets (the "1941 Freeze"). This account was also included on a list of names, published by the World Jewish Congress in 1996, of owners of Swiss bank accounts whose accounts were frozen in the 1941 Freeze. The CRT notes that in her claim forms, the Claimant specifically referenced seeing her father's name in a list published on 13 December 1996 by the Jewish Week Probe. With her ATAG Form, the Claimant submitted a copy of that entry, which reads "Feigenbaum, Stanislaw, Zurich."

The third account is documented by microfiche records of an account, numbered 326.145 held by Dipl. Ing. Stanislaw Feigenbaum. According to these records, which are dated 1 December 1976, this account was opened on 1 September 1941. The records do not indicate when this account was closed.

The fourth account is documented by documents submitted by the Claimant and by lists of account owners enclosed with Bank I's letter of 1 March 2001. The documents submitted by the Claimant regarding this account include a letter, dated 20 October 1982, from her father to her and her sister, enclosing a power of attorney form for his account (held under the name of Steven Fay), numbered PO 388 889, at Bank I, and requesting them to complete and return it. The letter also states that the account contained approximately 4,000.00 Swiss Francs ("SF") and detailed for what those funds were to be used. The Claimant also submitted a standing payment order, dated 4 January 1985, authorizing payment to the Swiss Alpine Club from this account. Bank I provided a list of account owners from lists dated 1981 to 1985 which also refers to this account, numbered 388 889 held by Steven Fay. In its letter of 1 March 2001, Bank I explained that this is the same account as that referenced by the Claimant.

## Bank II

The document regarding assets held at Bank II consists of a letter, dated 22 June 1942, from Stanislaus Feigenbaum to the director of Bank II. The letter confirms that Stanislaus Feigenbaum gave SF 20,000.00 in trust ("*Ich erlege bei Ihnen hiermit treuhänderisch den Betrag von Sfr. 20.000.--*"). The letter specifies two groups who had the exclusive rights to dispose over this amount: a) Dr. [REDACTED], who at the time resided at Hotel Bauer au Lac in Zurich, and Mr. Stanislaus Feigenbaum, who resided at Universitätsstrasse 118 in Zurich, both of whom were required to act jointly with regards to these funds; or b) a two- or three-person tribunal, whose names would be made known to the director of Bank II by Dr. Max Kimche, an attorney located at Bahnhofstrasse 104 in Zurich, no later than 1 July 1942.<sup>3</sup> The bottom of the letter

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<sup>2</sup> See *In re Account of Jegosyja Feigenbaum* (approved on 31 December 2003).

<sup>3</sup> The German original reads: "Ueber diesen Betrag dürfen ausschliesslich verfügen: a) Herr Dr. [REDACTED], z.Zt. Hotel Baur au Lac, Zürich, und Herr Stanislaus Feigenbaum, Universitätsstr. 118, Zürich, gemeinsam, oder b)

contains a typewritten confirmation of receipt of this amount and of the instructions regarding its disposal, signed by Bank II's director.

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's father's name and city and country of residence match the unpublished name and city and country of residence of Account Owner Stanislaw Feigenbaum and Account Owner Fay. Furthermore, the Claimant's mother's name and city and country of residence match the unpublished name and city and country of residence of Account Owner Irene Feigenbaum. The CRT notes that the documents pertaining to these accounts were either obtained from Bank I on the Claimant's behalf or submitted by the Claimant herself. The CRT notes that there are no other claims to these accounts.

### Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled Poland to Switzerland in 1939.

### The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the individual identified as the Account Owners by submitting specific biographical information demonstrating that the Account Owners were the Claimant's parents. As noted above, the documents pertaining to these accounts were either obtained from Bank I on the Claimant's behalf or submitted by the Claimant herself.

### The Issue of Who Received the Proceeds

#### *Bank I*

As noted above, the records indicate the existence of four accounts at Bank I.

With regard to the custody account numbered 59338, the CRT notes that this account served as collateral in favor of the Estate of [REDACTED], and that it was closed on 15 February 1949. As noted above, according to information provided by the Claimant, and as detailed in a previous decision, [REDACTED] resided in Zurich at the time of his death, either in 1946 or 1947. Thus, given that the account refers to the *late* [REDACTED], the CRT concludes that his heirs were in contact with Bank I after his death in 1946 or 1947, actively managed the account, ultimately closed the account, and received the proceeds themselves.

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ein Zweier- oder Dreier-Schiedsgericht, deren Namen Ihnen Herr Dr. Max Kimche, Rechtsanwalt, Bahnhofstrasse 104, Zürich 1, bis zum 1. Juli 1942 bekanntgeben wird.”

With regard to the account held jointly by Stanislaw and Irene Feigenbaum that was frozen in the 1941 Freeze and subsequently closed on 12 March 1947, the CRT notes that, after the signing of the Washington Agreement on 25 May 1946, all Swiss assets deposited in the United States were unfrozen, contingent upon certification of non-enemy interest by the Swiss authorities. After their release from the Freeze, such accounts could be reclaimed by account owners. In this case, the CRT notes that the account was closed on 12 March 1947, approximately ten months after the lifting of the 1941 Freeze. The CRT also notes that, according to information provided by the Claimant, Stanislaw Feigenbaum resided in Switzerland at the time the account was closed. The CRT also notes that Stanislaus Feigenbaum communicated with his daughters about his Swiss bank account at Bank I in 1982, and did not make any mention of assets belonging to him at Bank I that had not been returned to him. Given the above considerations, the CRT concludes that the Account Owners accessed this account after its release from the 1941 Freeze and received the proceeds themselves.

With regard to the account numbered 326.145 held by Stanislaw Feigenbaum, the CRT notes that this account was opened on 1 September 1941, while the Claimant's father resided in Zurich, and while the account he held jointly with his wife, addressed above, was frozen in the 1941 Freeze. The CRT also notes that Bank I submitted microfiche records pertaining to this account, dated 1 December 1976. These records strongly suggest that this account continued to exist as of that date. Given that this account was opened while Stanislaw Feigenbaum was in Switzerland and after another of his accounts was frozen in the 1941 Freeze, that Stanislaw Feigenbaum was not in Nazi occupied or allied territory after the opening of this account, and that records pertaining to this account show that this account existed until at least 1 December 1976, the CRT concludes that Stanislaw Feigenbaum retained control over this account and received the proceeds himself.

With regard to the account numbered 388 889 held under the name of Steven Fay, the CRT notes the only records pertaining to this account show that it existed in the 1980s. Neither the records provided by Bank I nor by the Claimant indicate that the account existed during the Relevant Period, which is defined by the Rules as the period from 1933 to 1945. According to Article 14 of the Rules, the CRT has jurisdiction to resolve claims to accounts of Victims open or opened in Swiss banks during the Relevant Period. Given that there is no evidence that this account existed in the Relevant Period, the CRT concludes that it has no jurisdiction over this account. The CRT does note, however, that both the documents submitted by the Claimant and provided by Bank I clearly show that the owner of the account retained control over this account as late as 1985, the date of a standing payment order which authorized payments from this account to the Swiss Alpine Club. Therefore, there is no evidence to suggest that the owner of this account did not receive its proceeds.

## *Bank II*

With regard to the assets given to the director of Bank II, as documented in the letter dated 22 June 1942 and submitted by the Claimant, the CRT notes that the letter does not clearly establish that the assets were deposited for the benefit of Stanislaus Feigenbaum. As detailed above, the letter specifies that two groups had the exclusive rights to dispose over the SF 20,000.00: a) Dr. [REDACTED] and Mr. Stanislaus Feigenbaum, both of whom were required to act jointly with regards to these funds; or b) a two- or three-person tribunal, whose names would be made known

to the director of Bank II by Dr. Max Kimche, an attorney located at Bahnhofstrasse 104 in Zurich, no later than 1 July 1942. In any case, the CRT notes that this amount was given to Bank II while Stanislaus Feigenbaum resided in Zurich, and that he never returned to Nazi-occupied or allied territory. As noted above, Stanislaus Feigenbaum communicated with his daughters about his Swiss bank account in 1982, and did not make any mention of assets belonging to him that were not returned to him. The CRT notes that, even if the Claimant were to establish that these funds were not returned to their rightful owner (which she has not), no award would be appropriate, as she has not established that her father was entitled to the funds that were deposited in trust with specific instructions as to who had disposition rights over them. Given the above considerations, the CRT concludes that no award is appropriate based upon this document.

### 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  
17 September 2010