

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to [REDACTED]

**in re Accounts of Ernst Fischer
(Power of Attorney Holder Irma Fischer)¹
and
Accounts of Oskar Fischer**

Claim Number: 601375/WM^{2, 3}

This Certified Denial is based on the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Irma Fischer and Oskar (Oscar) Fischer. This Denial is to the published accounts of Ernst Fischer (“Account Owner 1”), over which Irma Fischer held power of attorney, at the [REDACTED] (“Bank 1”), to the published accounts of Oskar Fischer (“Account Owner 2”) at the [REDACTED] (“Bank 2”), and to the published accounts of Oskar Fischer (“Account Owner 3”) at Bank 1.^{4, 5}

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 to the Holocaust Claims Processing Office (“HCPO”) in 1999 asserting that her uncle, Oskar Fischer, who was born on 5 November 1890, and his wife, Irma

¹ In an effort to locate any and all accounts that might have belonged to the Claimant’s relative, the CRT has reviewed and analyzed all accounts whose owners’ or power of attorney holders’ names are the same as that of the Claimant’s relative, even if the Claimant could not identify the owner of the account as her relative.

² The Claimant submitted a claim, numbered B-01979, on 20 August 1999, 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 601375.

³ The Claimant submitted an additional claim to the account of Berthold Schotten, which is registered under the claim number 223131. The CRT will treat the claim to this account in a separate determination.

⁴ The CRT did not locate accounts belonging to Irma Fischer 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”).

⁵ In this claim, the Claimant also claimed the account of Berthold Schotten, Emil Schotten, Pauline Schotten, Katharina Maria Hoffenreich and Karoline Hoffenreich. The CRT will treat the claims to these accounts in separate determinations.

Fischer, née Schotten, who was born on 22 November 1898, owned a Swiss bank account. The Claimant stated that her uncle and aunt were Jewish, and that they resided at Nelkengasse 3 in Vienna, Austria. The Claimant indicated that she was born on 28 August 1930 in Vienna, Austria.

The Claimant submitted documents in support of her application, including records from the Austrian State Archive (Archive of the Republic, Finance), concerning the assets of her relatives, Irma Fischer, numbered 41456, and Oscar Fischer, numbered 15034, which are further described below.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to accounts belonging to her relatives, Irma Fischer, née Schotten, and Oskar Fischer. The auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") reported six accounts whose owner's or power of attorney holder's names match those provided by the Claimant. Upon careful review of the bank documents, the CRT concluded that they evidence the existence of only five accounts.⁶ 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 5026770 and 5033177

Bank 1's records indicate that Account Owner 1 was Ernst Fischer, who resided in Vienna, Austria, and that the Power of Attorney Holder was Irma Fischer. Bank 1's records also indicate Account Owner 1's home address, as well as Power of Attorney Holder Irma Fischer's city and country of residence. In addition, the auditors who carried out the ICEP Investigation reported Power of Attorney Irma Fischer's home address to the CRT.

Accounts 1009193 and 1009194

Bank 2's records indicate that Account Owner 2 was Oskar Fischer, who resided in Germany. Bank 2's records also indicate Account Owner 2's city of residence, as well as the name and city and country of residence of another individual as a joint account owner for these accounts. Bank 2's records also indicate the date of death of Account Owner 2. In addition, Bank 2's records indicate the dates of closure of the accounts.

Account 5024803

Bank 1's records indicate that Account Owner 3 was Oskar Fischer, who resided in Mauer, Austria. Bank 1's records also indicate Account Owner 3's title. In addition, the ICEP auditors

⁶ The CRT notes that, on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), Oskar Fischer from Mauer, Austria is indicated as having two accounts. Upon careful review, the CRT has concluded that Bank 1's records evidence the existence of only one account.

found additional information about Account Owner 3, including his date of birth and home address, in the Austrian State Archives and forwarded this information to the CRT.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of an individual, which indicate their city of residence, home address, date of birth, marital status and the name of his spouse, Irma Fischer. According to these records, Irma Fischer’s city of residence and home address matches Power of Attorney Holder Irma Fischer’s city of residence and home address identified in Bank 1’s records and by the ICEP auditors.

Taking all these factors into account, the CRT determines that Irma Fischer and the Power of Attorney Holder Irma Fischer are the same person.

Other Austrian State Archive Records provided by the Claimant

The CRT notes that in the records of the Austrian State Archive (Archive of the Republic, Finance) provided by the Claimant, there are documents concerning the assets of the Claimant’s relatives, Irma Fischer, numbered 41456, and Oskar Fisher, numbered 15034. These records indicate Irma Fischer’s date of birth, city of residence, home address, marital status and the name of her spouse, Oscar Fischer. These records also indicate Oscar Fischer’s date of birth, city of residence, home address, marital status and the name of his spouse, Irma Fischer, née Schotten. These records were signed by Irma Fischer and Oskar Fischer in 1938.

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 Owners

As for Accounts 5026770 and 5033177, the CRT concludes that the Claimant has not identified the Power of Attorney Holder Irma Fischer as her relative. Although the name of her aunt matches the published name of the Power of Attorney Holder Irma Fischer, the information provided by the Claimant differs materially from the unpublished information about Power of Attorney Holder Irma Fischer available in Bank 1’s records and in the Austrian State Archive records. Specifically, the Claimant provided Austrian State Archive records indicating that her aunt was married to [REDACTED] and that they resided at Nelkengasse 3 in Vienna. In contrast, Bank 1’s records and the Austrian State Archive records indicate that Power of Attorney Holder Irma Fischer was married to a different individual and resided at a different

address. Consequently, the CRT is unable to conclude that the Power of Attorney Holder Irma Fischer and the Claimant's aunt are the same person.

As for Accounts 1009193 and 1009194, the CRT concludes that the Claimant has not identified Account Owner 2 as her relative. Although the name of her uncle matches the published name of Account Owner 2, the information provided by the Claimant differs materially from the published and unpublished information about Account Owner 2 available in Bank 2's records. Specifically, the Claimant stated that her uncle resided in Austria. In contrast, Bank 2's records show that Account Owner 2 resided in Germany. Bank 2's records also indicate Account Owner 2's date of death, and this information is inconsistent with the fact that the Claimant's uncle, Oskar Fisher, signed his Census declaration in 1938. Moreover, the Claimant did not identify the other individual who jointly held the account with Account Owner 2, even though that person appears to be related to Account Owner 2. Consequently, the CRT is unable to conclude that Account Owner 2 and the Claimant's uncle are the same person.

As for Account 5024803, the CRT concludes that the Claimant has not identified Account Owner 3 as her relative. Although the name of her uncle matches the published name of Account Owner 3, the information provided by the Claimant differs materially from the published and unpublished information about Account Owner 3 available in Bank 1's records and in the Austrian State Archive records. Specifically, the Claimant indicated that her uncle was born in 1890 and resided at Nelkengasse 3 in Vienna, Austria. In contrast, Bank 1's records show that Account Owner 3 was born on a different date and resided at a different address in a different city. Consequently, the CRT is unable to conclude that Account Owner 3 and the Claimant's uncle are the same person. Moreover, it should be noted that the CRT has awarded the account to another claimant, who plausibly identified the Account Owner as her relative. All decisions are published upon release on the CRT's website at www.crt-ii.org.

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 Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001 USA.

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
21 September 2005