

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], [REDACTED 3],
[REDACTED 4], [REDACTED 5] and [REDACTED 6]
[REDACTED 1] is represented by Peter Mikula

**in re Accounts of Richard Fischer
and
Account of Melly Wiener
(Power of Attorney Holder Richard Fischer)¹**

Claim Number: 402121/SB²

This Certified Denial is based on the claim of [REDACTED 1] (the “Claimant”) to the account of Richard Fischer (Fisher).³ This Denial is to the published and unpublished accounts of three individuals named Richard Fischer (“Account Owner 1,” “Account Owner 2” and “Account Owner 3”) at the [REDACTED] (“Bank 1”) and at the [REDACTED] (“Bank 2”); and to the published account of Melly Wiener (“Account Owner 4”), over which Richard Fischer (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (“Bank 3”).

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.

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 his relative.

² The Claimant submitted eleven additional claims, which are registered under the Claim Numbers 223450, 223453, 223454, 402118, 402122, 402124, 402125, 501691, 501695, 501701 and 501702. In separate decisions, the CRT awarded the account of Jakob Klein to the Claimant and treated the Claimant’s claim to the account of Egon Schick. See *In re Account of Jakob Klein* (approved on 15 September 2003) and *In re Account of Egon Schick* (approved on 13 October 2004). The CRT will treat the remaining claims in separate determinations.

³ The CRT did not locate an account belonging to Richard Fisher 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”).

Information Provided by the Claimant

The Claimant submitted a Claim Form in 2005 asserting that his cousin, Richard Fischer, who was born in 1910 in Vienna (today Austria), owned a Swiss bank account. The Claimant stated that his cousin, who was Jewish, was a dentist who resided in Austria until 1933 and then in Czechoslovakia. The Claimant further stated that his cousin perished in the Holocaust. The Claimant indicated that he was born on 23 June 1923 in Vieska (today Slovakia).

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Richard 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 seven accounts whose owners' names match that provided by the Claimant. 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 1012872 to 1012875

Bank 1's records indicate that Account Owner 1 was Richard Fischer, who resided in Austria. Bank 1's records also indicate Account Owner 1's title, profession, city of residence in Austria and a second city and country of residence. Furthermore, Bank 1's records indicate the dates of closing of one of the accounts at issue.

Account 1012922

Bank 1's records indicate that Account Owner 2 was Richard Fischer. Bank 1's records also indicate Account Owner 2's title, cities and country of residence and the dates of opening and closing of the account at issue.

Account 3017002

Bank 2's records indicate that Account Owner 3 was Richard Fischer. Bank 2's records also indicate Account Owner 3's title and city and country of residence and the names of three power of attorney holders. Finally, Bank 2's records contain Account Owner 3's signature.

Account 5024504

Bank 3's records indicate that Account Owner 4 was Melly Wiener, who resided in Zagreb, Yugoslavia and that the Power of Attorney Holder was Richard Fischer. Bank 3's records also indicate the Power of Attorney Holder's title and city and country of residence. Finally, Bank 3's records contain Account Owner 4's and the Power of Attorney Holder's signatures.

The CRT's Analysis

Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules").

Identification of the Account Owners

As for Accounts 1012872 to 1012875, the CRT concludes that the Claimant has not identified Account Owner 1 as his relative. Although the name of his cousin matches the published name of Account Owner 1, the information provided by the Claimant differs materially from the unpublished information about Account Owner 1 available in Bank 1's records. Specifically, the Claimant stated that his cousin resided in Austria and Czechoslovakia. In contrast, Bank 1's records show that Account Owner 1 resided in Austria and another country that the Claimant did not identify. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant's cousin are the same person.

As for Account 1012922, the CRT concludes that the Claimant has not identified Account Owner 2 as his relative. Although the name of his cousin matches the published name of Account Owner 2, the information provided by the Claimant differs materially from the unpublished information about Account Owner 2 available in Bank 1's records. Specifically, the Claimant stated that his cousin resided in Austria and Czechoslovakia. In contrast, Bank 1's records show that Account Owner 2 resided in a different country. Consequently, the CRT is unable to conclude that Account Owner 2 and the Claimant's cousin are the same person.

As for Account 3017002, the CRT concludes that the Claimant has not identified Account Owner 3 as his relative. Although the name of his cousin matches the unpublished name of Account Owner 3, the information provided by the Claimant differs materially from the unpublished information about Account Owner 3 available in Bank 2's records. Specifically, the Claimant stated that his cousin resided in Austria and Czechoslovakia. In contrast, Bank 2's records show that Account Owner 3 resided in a different country. Consequently, the CRT is unable to conclude that Account Owner 3 and the Claimant's cousin are the same person.

As for Account 5024504, the CRT concludes that the Claimant has not identified the Power of Attorney Holder as his relative. Although the name of his cousin matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the unpublished information about the Power of Attorney Holder available in Bank 3's records. Specifically, the Claimant stated that his cousin resided in Austria and Czechoslovakia. In contrast, Bank 3's records show that the Power of Attorney Holder resided in a different country. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's cousin are the same person. In addition, the CRT notes that the Claimant did not identify Account Owner 4 as his relative, and 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 Power of Attorney Holder, but not Account Owner 4, as his

relative, the Claimant would not have been entitled to the account unless there was evidence in Bank 3's records that the Power of Attorney Holder and Account Owner 4 were related.

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.

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
19 March 2007