

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Account of Bertha Frank
and
Account of Stefanie Cahn**

(Power of Attorney Holder Maria Cahn)¹

Claim Numbers: 210963/AE; 601177/AE^{2, 3, 4, 5}

This Certified Denial is based on the claim of [REDACTED], (the “Claimant”) to an account of Bertha Cahn, née Frank, and Maria Cahn, née Frehse. This Denial is to the published account of Bertha Frank (“Account Owner 1”) at the [REDACTED] (“Bank 1”) and to the published account of Stefanie Cahn (“Account Owner 2”), over which Maria Cahn (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (“Bank 2”).⁶

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 her relative.

² The Claimant submitted a claim, numbered B-00049, on 22 September 1997, 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 601177.

³ In 1999, the Claimant also submitted three Initial Questionnaires, numbered ENG-0012060, ENG-0012061 and ENG-0012062 to the Court in the United States. Although these Initial Questionnaires 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 Initial Questionnaires were forwarded to the CRT and have been assigned claim number 210963.

⁴ The Claimant submitted three Initial Questionnaires with the Court in 1999 and a Claim Form to the CRT. The CRT is treating the Initial Questionnaires and the Claim Form under the consolidated Claim Number 210963. In the Claim Form, the Claimant claimed an account belonging to Otto Cahn. The CRT will treat the claim to this account in a separate determination.

⁵ According to Article 37 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), claims to the same or related accounts may be joined in one proceeding at the CRT’s discretion. In this case, the CRT determines it appropriate to join the four claims of the Claimant in one proceeding.

⁶ In this claim, the Claimant also claimed the accounts of Otto Cahn, M. Frehse, B. Frank, A. Neuman, Albert Neuman, K. Jahn, and Max Fleischman. The CRT will treat the claims to these accounts in separate determinations.

Information Provided by the Claimant

The Claimant submitted a Claim Form and a claim to the Holocaust Claims Processing Office (“HCPO”) asserting that his paternal grandmother, Bertha Cahn, née Frank, who was married to [REDACTED], owned a Swiss bank account. The Claimant further asserted that his mother, Maria Cahn, née Frehse, who was born on 26 September 1903, and was married to [REDACTED] on 9 December 1927 in Essen, Germany, owned a Swiss bank account. The Claimant indicated that his family resided in Essen from 1931 to 1937, and in Amsterdam, the Netherlands from 1937 to 1947. According to the Claimant, his mother made frequent visits to Switzerland to deposit assets in her accounts there. The Claimant further indicated that his grandmother, who was Jewish, resided in Stommeln, Germany, before fleeing to Amsterdam in 1939. The Claimant indicated that the Nazi authorities told his mother that since she was German and aryan, she would not be harmed if she cooperated in arresting her husband, who was Jewish, and that even after his father went into hiding, his family continued to be harassed and targeted by the Nazis. According to the Claimant, his grandmother was arrested by the Nazis in 1942 and was deported to Theresienstadt and then to Auschwitz, where she perished. The Claimant indicated that he was born on 21 December 1929 in Essen.

The Claimant submitted documents in support of his application, including: (1) his grandmother’s marriage certificate; (2) his mother’s passport; and (3) his father’s birth certificate.

The Claimant previously submitted three Initial Questionnaires with the Court in 1999, and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Otto Israel Cahn, Berta Cahn, née Frank and Maria Cahn, née Frehse.

Information Available in the Bank’s Records

The CRT notes that the Claimant submitted a claim to an account belonging to his paternal grandmother, Berta Cahn, née Frank, and to an account belonging to his mother, Maria Cahn, née Frehse. 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 two accounts whose owner’s or power of attorney holder’s name matches those 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.

Account 4019717

Bank 1’s records indicate that Account Owner 1 was Bertha Frank, who resided in Germany. Bank 1’s records further indicate Account Owner 1’s city of residence. Furthermore, Bank 1’s records also indicate the names of two other persons, one of whom jointly held the account with Account Owner 1 and appears to be related to Account Owner 1, and the other who acted as Account Owner 1’s power of attorney.

Account 5025702

Bank 2's records indicate that Account Owner 2 was Stefanie Cahn, who resided in Frankfurt am Main, Germany, and that the Power of Attorney Holder was *Frl.* (Miss) Maria Cahn. Bank 2's records further indicate the Power of Attorney Holder's city and country of residence and street address. In addition, Bank 2's records indicate the names of two other individuals who are connected to the account at issue. Furthermore, Bank 2's records indicate the dates of opening and closing of the account at issue.

The CRT's Analysis

Admissibility of the Claim

The CRT has determined that, for purposes of issuing this Certified Denial, the claims are admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules").

Identification of the Account Owners

As for Account 4019717, the CRT concludes that the Claimant has not identified Account Owner 1 as his relative. Although the name of his grandmother 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 indicated that his grandmother resided in Stommeln, Germany, before moving to Amsterdam in 1939. In contrast, Bank 1's records show that Account Owner 1 resided in a different city in Germany, which is located over 450 kilometers from Stommeln, and to which the Claimant established no connection. Furthermore, the Claimant did not identify the power of attorney holder or the individual who jointly held the account at issue, although this individual appears to be closely related to Account Owner 1. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's relative are the same person. Moreover, it should be noted that the CRT has awarded the account to another claimant, who plausibly identified Account Owner 1 as her relative. All decisions are published upon release on the CRT's website at www.crt-ii.org.

As for Account 5025702, the CRT concludes that the Claimant has not identified the Power of Attorney Holder as his relative. Although the name of his mother matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the published and unpublished information about the Power of Attorney Holder available in Bank 2's records. Specifically, the Claimant stated that his mother's maiden name was Frehse. In contrast, Bank 2's records show that the Power of Attorney Holder's maiden name was Cahn. In addition, the Claimant indicated that his mother resided in Essen, Germany from 1931 to 1937, and in Amsterdam, the Netherlands from 1937 to 1947. In contrast, Bank 2's records show that the Power of Attorney Holder resided in a different city in Germany, which is located over 500 kilometers from Essen, and to which the Claimant established no connection.

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

In addition, the CRT notes that the Claimant did not identify Account Owner 2 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 Power of Attorney Holder Maria Cahn, but not Account Owner 2, as his relative, the Claimant would not have been entitled to the account unless there was evidence in Bank 2's records that Power of Attorney Holder Maria Cahn and Account Owner 2 were related.

The CRT has taken utmost care in matching the names of the persons identified by the Claimant as possible account owners to names of actual account owners identified in the Account History Database prepared pursuant to the ICEP Investigation, which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules. The CRT uses advanced name matching systems that consider variations of names, including name variations provided by Yad Vashem, Israel, to ensure that all possible name matches are identified. The CRT has reviewed these claims carefully and analyzed matches to accounts belonging to account owners with alternative spellings of [REDACTED]'s surname, which include Kann and Hahn, and has determined that these accounts do not belong to the Claimant's relatives.

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 his claims 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 September 2005