

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Catherine Olivia Jean Fried

in re Account of Nellie Fried

Claim Number: 501257/RS

This Certified Denial is based upon the claim of Catherine Fried, née Boswell, (the “Claimant”) to the published account of Nellie Fried (the “Account Owner”), over which B. Buchholz (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).

All Denials are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her mother-in-law, Nellie Fried, née Stein, who was born on 14 September 1896 in Vienna, Austria, and was married to Hugo Fried on 6 May 1920 in Vienna. The Claimant indicated that her mother-in-law, who was Jewish, lived at Alserbachstrasse 11 in Vienna and worked as a dress designer. According to the Claimant, Nellie Fried and her husband were arrested in 1938 and were accused of trying to send money outside of Austria. The Claimant explained that Hugo Fried perished as a result of torture suffered during the interrogation, and that Nellie Fried suffered threats and abuse but was eventually released from prison with the assistance of her son, Erich Fried, whom the Claimant later married. In a telephone conversation with the CRT, the Claimant stated that her mother-in-law fled Austria for England following her release from prison. The Claimant stated that her mother-in-law passed away in London on 6 June 1982.

In support of her claim, the Claimant submitted her mother-in-law’s death certificate, indicating that Nellie Fried was born in Vienna, that her son was Erich Fried and that she died on 6 June 1982; her own marriage certificate, indicating that Catherine Olivia Jean Boswell married Erich Fried on 10 August 1965; and her late husband’s death certificate, indicating that Erich Fried’s wife was Catherine Olivia Jean Fried, née Boswell. The Claimant indicated that she was born on 1 October 1936 in London, England.

Additional Information Obtained by the CRT

In an article published by Astrid Krone in 2002 entitled *Die Krypto-Teilnachlässe von Hugo und Nellie Fried. Neue Einblicke in die Familiengeschichte* (“The Secret Estate of Hugo and Nellie Fried: New Insights Into the Family History”), Astrid Krone discusses the hidden assets of the Fried family during the twentieth century.¹ Citing documents contained in the Austrian Literature Archive (*Oesterreiches Literaturarchiv*), Krone writes that Nellie Fried, who was born on 14 September 1896 in Vienna, was married to Hugo Fried, that her son was Erich Fried and that she resided in Vienna. According to Krone, Nellie Fried was an artist, fashion designer and investor who for a time lived and probably also worked with an architect. This article further indicates that Nellie Fried opened an account at the Bank in 1937 for the purpose of having royalties and other income transferred to an account outside of Austria, because she feared that the Nazi would come to power there. The article further indicates that Nellie Fried granted power of attorney to her lawyer, Dr. Berthold Buchholz, who withdrew the money from the account while she was incarcerated and without her consent and fled to Israel in 1938. According to this article, Nellie Fried was left without means in Vienna before she was able to escape to England. These records finally reference a trial before the High Court of Justice in London, indicating that Nellie Fried sued to regain her assets from the heirs of Dr. Buchholz, who died in 1950.

The CRT notes that the Claimant’s late husband and son of Nellie Fried, Erich Fried, was a well-known German-language poet, writer, and translator. According to one of the many websites devoted to Erich Fried, he was born on 6 May 1921 in Vienna and fled to England in 1938.² In 1939, he started a self-help group for young emigrants, which helped over 70 persons flee the German Reich. In 1943, his grandmother Malvine was killed in Auschwitz. After the War, Erich Fried worked on a number of newly-founded newspapers and magazines, and later joined the BBC as its German language commentator. Fried was a member of the well known literary group, Group 47. He was awarded the Bremen Literature Prize (*Bremer Literaturpreis*), the Austrian State Prize (*Oesterreichischer Staatspreis*), and the Georg-Büchner Prize. He died on 22 November 1988 after a long illness, and is buried in Kensal Green in London.

Information Available in the Bank's Records

The Bank’s records consist of a power of attorney form and part of an account card. According to these records, the Account Owner was Nellie Fried, who resided in Vienna, Austria, and the Power of Attorney Holder was Dr. B. Buchholz, who resided at Kohlmarkt 7 in Vienna. These records further indicate that the Account Owner was an architect. According to these records, the Account Owner also used a temporary address at the *Hotel Neues Schloss* located at Stockerstrasse 77 in Zurich, Switzerland. These records indicate that the Account Owner gave the Power of Attorney Holder an unlimited power of attorney, including the ability to dispose of the account individually without approval of the Account Owner. According to these records, the Account Owner held one demand deposit account, numbered 29975. These records further

¹ See <http://purl.org/sichtungen/krone-a-1a.html>.

² See <http://www.onb.ac.at/sammlungen/litarchiv/bestand/sg/nl/fried.htm>. See also <http://www.erichfried.de/index.htm> and <http://www.erich-fried.de/start.htm>.

indicate that the balance of the account in 1937 was 8,575.50 Swiss Francs (“SF”). According to these records, the account was closed on 28 April 1938.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s mother-in-law’s name and country and city of residence match the published name and country and city of residence of the Account Owner. In addition, the CRT notes that Nellie Fried’s lawyer’s name, Dr. Berthold Buchholz, mentioned in the article by Astrid Krone, matches the title, first initial and surname of the Power of Attorney Holder, Dr. B. Buchholz. In support of her claim, the Claimant submitted documents, including her mother-in-law’s death certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank’s records as the name and city of residence of the Account Owner.

The CRT notes that the name Nellie Fried appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution (“ICEP” or the “ICEP List”).

The CRT notes that the Bank’s records indicate that the Account Owner was an architect whereas the Claimant indicated that her mother-in-law was a dressmaker and the article by Astrid Krone, referred to in detail above, describes Nellie Fried as an artist, fashion designer and inventor. However, the CRT notes that Krone’s article also states that Nellie Fried lived and probably worked with an architect. Accordingly, the CRT finds it plausible that Nellie Fried described herself as an architect when she opened her account with the Bank.

The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that she and her husband Hugo Fried were arrested in 1938, and that her husband perished as a result of torture suffered during the interrogation. The Claimant further stated that, with the assistance of her son, Erich Fried, the Account Owner was released from prison and subsequently fled Austria for England.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant’s mother-in-law. These documents include her mother-in-law’s death certificate, indicating that Nellie Fried’s son was Erich Fried, and her own marriage certificate and her late husband’s death certificate, indicating that her husband was Erich Fried.

The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

The Bank's records indicate that the Power of Attorney Holder held an unlimited power of attorney entitling him to dispose of the account without the consent of the Account Owner. The CRT notes that the article by Astrid Krone indicates that the Power of Attorney Holder withdrew all assets in the account without the approval of the Account Owner and fled to Israel in 1938. The CRT notes that this information is consistent with the date of closure of the account contained in the Bank's records. Furthermore, the CRT notes that the article indicates that the Account Owner later sued the Power of Attorney Holder's heirs in a London court to recover the assets that the Power of Attorney Holder allegedly misappropriated from the Account Owner. While the CRT notes that the Account Owner may not have received the proceeds of her account, the evidence suggests that the Bank released the assets in the account to the Power of Attorney Holder who was authorized by the Account Owner to withdraw the funds in the account. Therefore, the CRT concludes that the account proceeds were paid to an authorized party, and that the Claimant is not entitled to an award in this case.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (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 and by the Special Masters.

Claims Resolution Tribunal
13 February 2009