

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Accounts of Adil Gabay

Claim Number: 203467/SB/MW¹

This Certified Denial is based on the claim of [REDACTED] (the “Claimant”) to the account of Adil Gabay. The CRT did not locate an account belonging to Adil Gabay 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”). This Denial is to the account of Adil Gabay (the “Account Owner”) at the New York branch of the [REDACTED] (the “Bank”).

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 Form asserting that her father’s cousin, Adil Gabay, who was born in 1900 in Belgrade, Yugoslavia, and was never married, owned a Swiss bank account. The Claimant stated that her father’s cousin, who was Jewish, was a businessman who resided in Istanbul, Turkey from 1918 to 1941. The Claimant further stated that her father’s cousin was murdered by the Nazis in 1942. The Claimant indicated that she was born on 13 December 1920 in Bucharest, Romania.

The Claimant indicated that she identified the name of her relative on a list published by the World Jewish Congress in 1997. This list contained names of owners of Swiss bank accounts that had been held in New York branches of Swiss banks and that had been frozen on 14 June 1941 pursuant to accordance with the U.S. government’s Trading With The Enemy Act (the “1941 Freeze”). The CRT notes that the World Jewish Congress list did not distinguish between accounts that had been frozen in the 1941 Freeze and subsequently released to their owners and accounts that were not returned to their owners. In fact, many accounts included on the World Jewish Congress list were returned to their proper owners.

¹ The Claimant submitted an Initial Questionnaire with the Court in 1999 and a Claim Form to the CRT. The CRT is treating the Initial Questionnaire and the Claim Form under the consolidated Claim Number 203467.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Adil Gabay.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, Adil Gabay. The auditors who carried out the ICEP Investigation did not report an account whose owner's name matches or is substantially similar to that provided by the Claimant. However, pursuant to a request by the CRT for additional information, the Bank provided the CRT with documents pertaining to two accounts owned by Adil Gabay. These accounts are identified below by a unique Account Identification Number, which is a number assigned to it for tracking purposes.

Account 6002469 and Account 6002469.1

The Bank's records consist of two customer cards, a ledger sheet, and a sheet from a ledger from the National Archives. According to these records, the Account Owner was Adil Gabay. The Bank's records indicate that the Account Owner held two accounts, the types of which are not indicated, numbered 80572 and HL 8114, in the New York branch of the Bank. The Bank's records further indicate the Account Owner's country of birth, citizenship, and city and country of residence. In addition, the Bank's records indicate the name of the Account Owner's business partner and the name of a company owned by the Account Owner. Furthermore the Bank's records indicate a date on which the Account Owner communicated with his business partner.

Information Available in the HCPO's Records

The Holocaust Claims Processing Office ("HCPO") of the New York State Banking Department provided the CRT with further information regarding Account 6002469. According to this information, subsequent to the publication of the World Jewish Congress list, in 1997, the HCPO received a claim to the Account Owner's account from a person who identified himself as a relative of the Account Owner. The information this person provided in his claim about his relative, including place of birth, city of residence, and fate during the Second World War, matched unpublished information about the Account Owner available in the Bank's records. According to the HCPO, records made available to it by the Bank indicated that, as of 14 June 1941, the Account Owner's accounts were not subject to the 1941 Freeze and remained freely accessible to the Account Owner. The HCPO indicated that it closed the claim to this account in 1999, after concluding that the person who filed the claim was related to the Account Owner, and that the Account Owner received the proceeds of the account himself.

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 Owner

The CRT concludes that the Claimant has not identified the Account Owner as her relative. Although the name of her father's cousin matches the unpublished name of the Account Owner, the information provided by the Claimant differs materially from the unpublished information about the Account Owner available in the Bank's records. Specifically, the Claimant stated that her father's cousin was born in Belgrade, Yugoslavia and was murdered by the Nazis in 1942. In contrast, the Bank's records show that the Account Owner was born in a different country and had a different fate in the Second World War. Further, the HCPO indicated that it received another claim in 1997 that identified unpublished information about the Account Owner available in the Bank's records. Consequently, the CRT is unable to conclude that the Account Owner and the Claimant's father's cousin are the same person.

The Issue of Who Received the Proceeds

The Bank's records indicate, and the HCPO has confirmed, that the accounts at issue were not subject to the 1941 Freeze and remained freely accessible to the Account Owner, who resided in a country that was not involved in the Second World War. Thus, even though the CRT has determined that the Claimant's relative is not the Account Owner and is therefore not required to reach a determination as to the ultimate disposition of the account, the CRT concurs with the HCPO's determination that the Account Owner had free access to and received the proceeds of the claimed accounts.

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: c/o Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001, the United States.

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
30 September 2005