

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]
represented by [REDACTED 2]

and to Claimant [REDACTED 2]

in re Account of Eva Gabor

Claim Numbers: 300491/MC; 754107/MC; 754487/MC; 773679/MC

This Certified Denial is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Gisela Gabor, Jelisaveta (Elisabeth) Gabor, née Kaufman, Pavle (Paul) Gabor, Victor Gabor, and Eva Gabor,¹ and the claim of Dr. [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Jelisaveta Gabor.² This Denial addresses documents submitted by the Claimants purporting to evidence the existence of an account owned by Eva Gabor (the “Claimed Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All denials are published, but where a claimant has requested confidentiality, as the Claimants have in this case, the names of the claimants, any relatives of the claimant other than the claimed account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 2] and her mother, Claimant [REDACTED 1], submitted similar Claim Forms identifying the Claimed Account Owner as Claimant [REDACTED 2]’s paternal aunt and Claimant [REDACTED 1]’s sister-in-law, Eva Gabor. The Claimants stated that Eva Gabor was the sister of Pavle (Paul) Gabor, Claimant [REDACTED 1]’s late husband. The Claimants explained that Paul and Eva Gabor were the children of Jelisaveta and Victor (Gyözö) Gabor, and that their family owned a large timber business based in Bačka Topola, Yugoslavia (now

¹ In separate decisions dated 7 December 2006, 23 January 2008, and 29 October 2008, the CRT treated Claimant [REDACTED 1]’s claims to the accounts of Jelisaveta (Elisabeth) Gabor, Pavle (Paul) Gabor, Eva Gabor, Victor Gabor, and Gisela (Gizela) Gabor. In those decisions, the CRT noted that it did not locate any accounts belonging to these individuals 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”). The current decision addresses documents submitted by Claimant [REDACTED 1] and her daughter, Claimant [REDACTED 2], purporting to evidence the existence of an account owned by Eva Gabor.

² In a decision dated 7 December 2006, the CRT treated Claimant [REDACTED 2]’s claim to the account of Jelisaveta Gabor.

Serbia), which exported timber world-wide. The Claimants explained that during the Second World War, members of their family were deported to Auschwitz, where Jelisaveta Gabor, who was Jewish, perished in 1944. The Claimants stated that Eva Gabor died, but did not provide the circumstances of her death.

In support of their claims, the Claimants submitted documents which are described below.

Claimant [REDACTED 2] indicated that she was born on 18 September 1947 in Bačka Topola, Yugoslavia (now Serbia), and Claimant [REDACTED 1] indicated that she was born on 12 April 1919 in Kežmarok, Slovakia.

Information Available in the Bank's Record

The CRT notes that the auditors who carried out the investigation of this Bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Eva Gabor. The documents relating to the existence of an account were submitted by the Claimants to the CRT.

These documents include a receipt that shows that the Bank had received a payment order ("*Zahlungsanweisung*") on 24 September 1938 and that, pursuant to this order, had paid the amount of 300.00 Swiss Francs ("SF") that it had received from another banking institution to *Fr. (Miss) Eva Gabor*, a pupil at the boarding school *Inter Svas*.

The Claimants also submitted a letter dated 26 February 1981 from the Bank to Claimant [REDACTED 1], in response to an inquiry made by her legal representative regarding any assets held at the Bank in the names of Elisabeth Gabor, Paul Gabor and Eva Gabor. In that letter, the Bank wrote that the document she enclosed with her inquiry showed only that the Bank had received instructions to pay a sum in Swiss Francs, which had been transferred from another banking institution, to Miss Gabor. The CRT notes that the document referred to in the letter was not attached, but presumes it refers to the receipt described above that the Claimants submitted with their claims.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) 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 Claimants in one proceeding.

Basis for the Denial

While the CRT has previously awarded accounts to claimants when the ICEP Investigation failed to locate an account belonging to their relative (an account not included in the Account History Database, the Account Dossiers, and the Total Accounts Database), the evidence submitted by these claimants falls into very limited categories. Article 17 of the Rules lists certain categories of evidence that the CRT has used to justify an award when an account is not identified in the ICEP Investigation. These categories include Austrian State Archives Records and other government records, records of the New York State Holocaust Claims Processing Office, and any other historical and factual material available to the CRT. Examples of facially reliable evidence submitted by claimants include actual bank documents evidencing the existence of an account, documents submitted to an official governmental agency, and official letterhead indicating a connection to a Swiss bank.

While the CRT bears in mind the difficulties of proving a claim after the destructive events of the Second World War, it has determined in this case that the receipt submitted by the Claimants is insufficient to support the existence of a bank account owned by Eva Gabor. Although the receipt submitted by the Claimants shows that the Bank had received a payment order (“*Zahlungsanweisung*”) on 24 September 1938 and that, pursuant to this order, had paid the amount of 300.00 Swiss Francs (“SF”) that it had received from another banking institution to *Frl.* (Miss) Eva Gabor, a pupil at the boarding school *Inter Svas*, it does not indicate that Eva Gabor held an account there. The receipt merely documents that the Bank acted as a conduit for this payment, not that Miss Gabor held an account there. The CRT also notes that the receipt shows that this amount was, in fact, received by Miss Gabor. Given the above considerations, the CRT is unable to make an award to the Claimants based upon the evidence they have presented.

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.

Claims Resolution Tribunal
17 September 2010