

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Accounts of D. J. S. Goldberg
and
Account of Ana Lucia Goldberg**

Claim Numbers: 601285/AV; 789679/AV¹

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the accounts of Davy John Stanley Goldberg, Anna Lucia Goldberg, née Filotti, and John Stanley Goldberg.² This Certified Denial is to the unpublished accounts of David John Stanley Goldberg (“Account Owner David Goldberg”) at the Lugano and Chiasso branches of the [REDACTED] (“Bank I”), the unpublished accounts of D. J. S. Goldberg (“Account Owner D. Goldberg”) and Ana Lucia Goldberg (“Account Owner Ana Goldberg”) (together the “Account Owners”) at the Lugano and Chiasso branches of the [REDACTED] (“Bank II”), and accounts of Account Owner D. Goldberg at the [REDACTED] (“Bank III”) (together the “Banks”).

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 to the Holocaust Claims Processing Office (“HCPO”) and an Initial Questionnaire, identifying Account Owner Ana Goldberg as her sister, Anna Lucia Goldberg, née Filotti, and identifying Account Owner D. Goldberg and Account Owner David Goldberg as her sister’s spouse, Davy John Stanley Goldberg. The Claimant specified that Davy Goldberg was born on 7 December 1891 in Braila, Romania, that Anna Goldberg was born on 5 July 1912, also in Braila, and that they were married in 1939. The Claimant stated that Davy Goldberg worked in the Romanian stock market. According to the Claimant, her sister and her brother-in-law, who were both Jewish, fled from Romania to Turkey in 1941. The Claimant stated that after the Second World War, her sister and her sister’s husband resided in Milan,

¹ The Claimant submitted a claim, numbered B-00114, on 26 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 601285.

² The CRT will treat the claim to the accounts of John Stanley Goldberg in a separate determination.

Italy. The Claimant indicated that her sister died in 1973, and that her brother-in-law died on 3 May 1975.

The Claimant submitted her sister's death certificate, identifying her as Anna Lucia Filotte, and indicating that she was married to Daviy Goldberg and that she was born in Braila; her brother-in-law's death certificate, identifying him as Daviy Goldberg and indicating that he was born in Braila; and the Claimant's birth certificate, indicating that she was born in Braila.

In addition, the Claimant submitted documents relating to accounts at the Banks. These documents include account opening contracts, account statements, payment slips, and several letters from the Banks, as well as documents contained in a safe deposit box at Bank II that were obtained by the Claimant, and will be described in detail below.

The Claimant indicated that she was born on 6 July 1914 in Braila, Romania.

Information Available in the Bank's Records

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 Davy John Stanley Goldberg or Anna Lucia Goldberg during their investigation of the Banks. The Banks' documents were obtained from the Bank by the HCPO and the Claimant and were forwarded to the CRT.

Bank I's records consist of account opening contracts, account statements, payments slips, and correspondence from Bank I. According to these records, Account Owner David Goldberg was David John Stanley Goldberg. Bank I's records indicate that Account Owner David Goldberg held four demand deposit accounts, numbered 610.652.06 C, 610.652.60 B, 692.327.01 P, and 692.327.60 J. Bank I's records further indicate that these accounts were opened in 1965. Furthermore, Bank I's records indicate that these accounts were paid to the Claimant.

Bank II's records consist of a letter from the successor in interest to Bank II to the HCPO, dated 26 November 1997, describing the Account Owners' accounts at Bank II, and several documents taken from a safe deposit box held by Account Owner D. Goldberg at Bank II. According to these records, Account Owner Ana Goldberg was Ana Lucia Goldberg and Account Owner D. Goldberg was D. J. S. Goldberg. Bank II's records indicate that Account Owner Ana Goldberg held a demand deposit account, numbered 0172-5385-0, at the Chiasso branch of Bank II. Bank II's records indicate that this demand deposit account was closed on 16 October 1985.

Furthermore, Bank II's records indicate that Account Owner D. Goldberg held one safe deposit box, numbered 106 ("Safe 106"), at the Chiasso branch of Bank II, and a second safe deposit box, numbered 328 ("Safe 328"), at the Lugano branch of Bank II. Bank II's records indicate that Safe 328 was forced open by Bank II on 6 December 1978 due to lack of contact and failure to pay fees. Bank II's records further indicate that Safe 106 was closed on 31 July 1986, and the contents were turned over to the Claimant's son.

The Claimant forwarded to the CRT several of the documents that had been kept in Safe 106. These included an inventory of the contents of Safe 328, dated 27 August 1974.

In addition, the documents in Safe 106 included several pages containing handwritten notes, which make the following references several times: “Safe Z-239,” “Safe T-312,” and three letters that, together, are recognized as an abbreviation, in English, of Bank III. Finally, the Claimant forwarded to the CRT a letter from Bank III to the HCPO, dated 21 April 1998, indicating that the Claimant inquired at Bank III about safe deposit boxes with these numbers that may have been held by his relatives, and stating that “account holders other than the Goldbergs have rented boxes 239 and 312 in Zurich as far back as [Bank III was] able to determine.”

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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant’s sister’s name matches the unpublished name of Account Owner Ana Goldberg, and the Claimant’s brother-in-law’s name matches the unpublished name of Account Owner D. Goldberg and Account Owner David Goldberg. In support of her claim, the Claimant submitted documents, including her sister’s and her brother-in-law’s death certificates, providing independent verification that the persons who are claimed to be the Account Owners had the same names recorded in the Bank’s records as the names of the Account Owners. The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners was a Victim of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled from Romania to Turkey in 1941.

The Claimant’s Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information, demonstrating that the Account Owners were the Claimant’s sister and brother-in-law. The CRT notes that the Claimant submitted a copy of her sister’s and brother-in-law’s death certificates. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. The CRT

further notes that these documents provide independent verification that the Claimant's relatives bore the same family name and that they resided in Romania. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her Claim Form. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

With respect to the four demand deposit accounts at Bank I, Bank I's records indicate that these accounts were opened in 1965. According to Article 14 of the Rules, the CRT shall have jurisdiction to resolve claims to Accounts of Victims open or opened in Swiss banks during the Relevant Period. According to Article 46(20) of the Rules, the Relevant Period is the period from 1 January 1933 to 31 December 1945. Consequently, the CRT concludes that these accounts are outside its jurisdiction. While the CRT makes no conclusions regarding accounts outside its jurisdiction, it does note that Bank I's records indicate that the accounts were paid to the Claimant.

With respect to Safe 106 at Bank II, the CRT notes that this account was not reported by the ICEP auditors, and that there is no evidence that this account was open or opened in the Relevant Period. Consequently, the CRT concludes that it does not have the authority to treat the claim to this account. As noted above, while the CRT makes no conclusions regarding accounts outside its jurisdiction, it does note that Bank II's records indicate that this safe deposit box was closed on 31 July 1986, and that the contents were turned over to the Claimant's son.

With respect to Safe 328 at Bank II, the CRT notes that this account was not reported by the ICEP auditors, and that there is no evidence that this account was open or opened in the Relevant Period. Consequently, the CRT concludes that it does not have the authority to treat the claim to this account. As noted above, while the CRT makes no conclusions regarding accounts outside its jurisdiction, it does note that Bank II's records indicate that this safe deposit box was forcibly opened by Bank II on 6 December 1978 due to lack of contact and failure to pay fees, that Account Owner D. Goldberg died on 3 May 1975, that an inventory of the contents of Safe 328, dated 27 August 1974, was found in Safe 106, that Account Owner D. Goldberg never lacked access to Safe 328, and that Account Owner D. Goldberg or his heirs therefore had access to the account and received its proceeds.

With respect to the demand deposit account owned by Account Owner Ana Goldberg at Bank II, the CRT notes that this account was not reported by the ICEP auditors, and that there is no evidence that this account was open or opened in the Relevant Period. Consequently, the CRT concludes that it does not have the authority to treat the claim to this account. While the CRT makes no conclusions regarding accounts outside its jurisdiction, it does note that this account was closed on 16 October 1985, and that the Claimant's son was in contact with Bank II the following year.

Basis for the Denial to the claimed accounts at Bank III

The CRT notes that the Claimant provided the documentation about the existence of accounts owned by his relatives at Bank III. The CRT has determined that the evidence submitted by the Claimant with respect to the safe deposit boxes at Bank III is insufficient to justify an award. According to Article 17 of the Rules, the CRT shall use the records and files available from the Account History Database, the Account Dossiers, and the Total Accounts Database, the information submitted by the Claimants, and to the extent that the CRT deems relevant, other sources of information to determine whether an award is justified. 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 Archive 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, 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 the existence of an account after the destruction of the Second World War, it has determined in this case, because the handwritten notes provided by the Claimant do not fall into any of the categories discussed above, nor do they indicate an official connection to Bank III, nor do they contain a reference to account dates during the Relevant Period that can be independently verified, it is insufficient to support the existence of a bank account. Accordingly, the CRT is unable to make an award to the Claimant based upon this evidence.

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. 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, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Denial

The CRT certifies this Denial for approval by the Court and by the Special Masters.

Claims Resolution Tribunal
21 September 2005