

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Account of Friedrich Hamburger

Claim Number: 710332/MBC¹

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Josefine Kruschek and Friedrich Hamburger.² This Denial is to the published account of Friedrich Hamburger (the “Account Owner”) at the Zurich 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 an Initial Questionnaire (“IQ”) identifying the Account Owner as her paternal uncle, Friedrich Hamburger. The Claimant stated that Friedrich Hamburger, who was Jewish and who was a medical doctor, resided at Goldschlagstrasse 104 in Vienna during the Second World War. In a telephone conversation with the CRT, the Claimant stated that her uncle’s apartment in Vienna was confiscated by the Gestapo in 1942, and that her uncle, who was a widower, was subsequently deported to Opole, Poland, where he perished.

The Claimant indicated that she was born on 4 April 1928.

¹ [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered GER-0058-179, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 710332.

² The CRT did not locate an account belonging to Josefine Kruschek 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”).

Information Available in the Bank's Records

The Bank's records consist of a report from 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"). According to the auditors' report, the Account Owner was Dr. Friedrich Hamburger, who resided in Vienna, Austria. The auditors' report indicates that the Account Owner held a numbered custody account, numbered 11602, which was opened on 20 August 1931 and was closed on 1 March 1938. The amount in the account on the date of its closure is unknown.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents, which consist of a list of accounts held by the Bank and an extract from the Bank's ledger of archived (*abgelegten*) custody accounts. These records confirm the Account Owner's name, the number of his account, and that the account was opened on 20 August 1931 and closed on 1 March 1938.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Dr. Friedrich Hamburger, numbered 29784.

These records contain a declaration of assets, signed by Dr. Friedrich Hamburger on 12 July 1938, indicating that Dr. Friedrich Hamburger, who was Jewish, was born on 24 July 1877, and that he resided at Goldschlagstrasse 104 in Vienna. These records further indicate that Dr. Friedrich Hamburger was widowed and was a retired medical doctor. The list of assets indicates that Dr. Friedrich Hamburger held an insurance policy with the company *Victoria* in Berlin valued at 704.00 US Dollars ("US \$"), as well as a pension valued at RM 45,267.00 but which would cease being paid as of 31 May 1938. These records further contain a letter from Friedrich Hamburger to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle Wien*, or "VVSt."), requesting the VVSt. to deduct his pension from his declared assets in the aforementioned list of assets. This letter further indicates that Dr. Friedrich Hamburger later resided at Börsegasse 7 in Vienna.

The records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant also identified the Account Owner's profession, which matches unpublished information about the Account Owner contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Friedrich Hamburger, and indicates that his date of birth was 24 July 1877, that he resided at Börsegasse 7/6 in Vienna, and that he was deported from Vienna to Opole, Poland on 26 February 1941, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name Friedrich Hamburger appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Friedrich Hamburger, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to this account.

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, and that he perished after being deported to Poland.

As noted above, a person named Friedrich Hamburger was included in the CRT's database of victims.

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, demonstrating the Account Owner was the Claimant's uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

In this case, the Account Owner's account was closed on 1 March 1938, prior to the incorporation of Austria into the German Reich (the "*Anschluss*") on 12 March 1938. Therefore, the CRT concludes that the Account Owner was able to access his account on 1 March 1938, and that he closed and received the proceeds of the account himself.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of 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
3 June 2009