

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Franz Carl Johann Perl-Gregor
represented by Jonathan Palmer

in re Accounts of Eduard Herwirsch

Claim Number: 402154/RS

This Certified Denial is based upon the claim of Franz Carl Johann Perl-Gregor (the “Claimant”) to the accounts of Franz Perl-Gregor. This Denial is to the published accounts of Eduard Herwirsch (the “Account Owner”), which were subsequently inherited by his sole heir, Franz Perl-Gregor (the “Account Owner’s Heir”), at the Zurich branch of the [REDACTED] (the “Bank”).¹

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’s Heir as his father, Franz Karl Eduard Perl-Gregor, who was born on 12 August 1885 in the district of Penzing in Vienna, Austria, and who was married to Gertrud Emilie Perl-Gregor, née Wanke, on 29 January 1949 in Vienna. The Claimant indicated that Franz Karl Eduard Perl-Gregor’s parents were Franz Josef Perl and Gabrielle Perl, née Herwirsch. The Claimant indicated that his father, whose mother and grandmother were Jewish, was a commercial director, and that he resided at Reichsratsstrasse 3/4 in Vienna.

The Claimant submitted copies of documents, including: (1) his father’s birth certificate, indicating that Franz Carl Eduard Perl-Gregor was born on 12 August 1885 in Penzing, and that his parents were Franz Perl and Gabriele Maria Antonia Caroline Perl; (2) his parents’ marriage certificate, indicating that Franz Karl Eduard Perl-Gregor and Gertrud Emilie Wanke were married on 29 January 1949 in Vienna, and that the bridegroom’s parents were Franz Josef Perl

¹ The CRT notes that, on the List of Account Owners Published in 2005 (the “2005 List”), Eduard Herwirsch and Franz Perl-Gregor are each indicated as owning accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence that Eduard Herwirsch was the original account owner until he died on 7 October 1944, at which time, his heir and nephew, Franz Perl-Gregor, inherited all of his assets, including his accounts. However, the Bank’s records indicate that the official owner of the account remained Eduard Herwirsch, even after the Bank was notified of his death.

and Gabriele Maria Antonia Karolina Perl, née Herwirsch; (3) his father's death certificate, indicating that Franz Karl Eduard Perl-Gregor was born on 12 August 1885 in Vienna and died on 31 July 1967 in Vienna; (4) his father's driver's license, issued in September 1947 in Vienna, indicating that the bearer was Franz Perl-Gregor, who resided at Reichsratsstrasse 3 in Vienna, and who was born on 12 August 1885 in Vienna; (5) a renter's registration form dated 27 August 1949, indicating that Franz Carl Johann Perl-Gregor resided at Reichsratsstrasse 3 in Vienna, together with his parents Franz Perl-Gregor and Gertrud, née Wanke; (6) his mother's death certificate, indicating that Gertrud Perl-Gregor died on 1 August 1981, and that she was the widow of Franz Karl Eduard Perl-Gregor; and (7) his own birth certificate, indicating that Franz Carl Johann Perl-Gregor was born on 31 July 1949 in Vienna, and that his parents were Franz Karl Eduard Perl-Gregor and Gertrud Emilie Perl-Gregor.

The Claimant indicated that he was born on 31 July 1949 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of an account closing card, correspondence between the Bank and the Account Owner's Heir and his attorney, Dr. Ernst Egger; a list of securities; documents relating to the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"); and documents from the Swiss Office of Compensation (*Schweizerische Verrechnungsstelle*). According to these records, the Account Owner was *Hofrat* (Court Counselor) Dr. Eduard Herwirsch, who resided at Hintere Zollamtstrasse 9 in Vienna. These records further indicate that Eduard Herwirsch died on 7 October 1944 in Vienna; subsequently, his nephew and sole heir, Director Franz Perl-Gregor, who resided at Reichsratsstrasse 3 in Vienna, Austria, inherited ownership of the bank accounts, however the name on the accounts was never changed from Dr. Eduard Herwirsch to Director Franz Perl-Gregor. The records do not indicate the cause of death of Dr. Eduard Herwirsch.

The Bank's records indicate that the Account Owner held a demand deposit account and a custody account, both numbered 32576. The Bank's records further indicate that in accordance with the 1945 Freeze, the custody account was frozen on 17 February 1945, at which time it contained eight shares of *Aktien Limmat Industrie & Handels Aktiengesellschaft Zürich* bonds, which had a total face value of 8,000.00 Swiss Francs ("SF").

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of several pieces of correspondence between the Bank and the attorney for the Account Owner's Heir, Dr. Ernst Egger, dated between 1947 and 1949, which indicate that Dr. Ernst Egger requested the proceeds of the Account Owner's demand deposit account and custody account, on behalf of the Account Owner's Heir, Director Franz Perl-Gregor. The records also include a number of Austrian court-certified documents confirming that Franz Perl-Gregor was Eduard Herwirsch's sole heir. The Bank's records also include correspondence between the Bank and Director Franz Perl-Gregor dated 18 March 1949, in which the Bank acknowledged his status as the Account Owner's lawful heir, and provided

him with detailed information regarding the number and value of the accounts held at the Bank by the Account Owner. The Bank also indicated in those letters that it was willing to apply to the Swiss Office of Compensation for the 'unfreezing' of the Account Owner's accounts on Director Franz Perl-Gregor's behalf.

The Bank's records indicate that the accounts were unfrozen some time around 21 July 1949, and that the accounts were closed on 23 May 1952.

The CRT's Analysis

Identification of the Account Owner

While the Claimant did not specifically identify the Account Owner, he did plausibly identify the Account Owner's Heir. The Claimant's father's name matches the published name of the Account Owner's Heir. The Claimant identified the Account Owner's Heir's street address, his city and country of residence, and his occupation, all of which match unpublished information about the Account Owner's Heir contained in the Bank's records.

The Claimant also submitted a sample of his father's signature, which matches the signature sample of the Account Owner's Heir contained in the Bank's records.

The CRT notes that the Claimant did not specifically identify the Account Owner. However, the Claimant did identify the Account Owner's surname, by indicating that the Account Owner's Heir's mother's maiden name was Herwirsch. Given that the Bank's records indicate that the Account Owner's Heir was the Account Owner's nephew, the CRT concludes that the Account Owner was the Account Owner's Heir's mother's brother, and that the Claimant has plausibly indicated that he is also related to the Account Owner, even though he did not specifically identify him by name.

In support of his claim, the Claimant submitted copies of documents, including his father's birth certificate, his parents' marriage certificate, his own birth certificate, and his father's death certificate, providing independent verification that the person who is claimed to be the Account Owner's Heir had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner's Heir. Moreover, the Claimant's parents' marriage certificate provides independent verification that the person who is claimed to be the Account Owner had the same family name recorded in the Bank's records as the family name of the Account Owner.

The CRT notes that the name Eduard Herwirsch appears only once on the List of Account Owners Published in 2005 (the "2005 List"). The CRT further notes that there are no other claims to these accounts. 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 did not specifically identify the Account Owner; however, he did indicate that the Account Owner's sister, Gabrielle Perl-Gregor, née Herwirsch, was Jewish, and the CRT concludes that it is most plausible that the Account Owner himself was therefore also Jewish. The Bank's records also indicate that the Account Owner resided in Vienna, Austria throughout the Second World War, but do not indicate how the Account Owner died in 1944. Accordingly, the CRT concludes that the Account Owner was a Victim of Nazi Persecution.

The Claimant's Relationship to the Account Owner

The Claimant did not specifically identify the Account Owner. However, he has plausibly indicated that he is related to the Account Owner's Heir by submitting specific information and documents, demonstrating that the Account Owner's Heir was the Claimant's father. In addition, the Bank's records contain court-certified documents indicating that the Account Owner's Heir was the Account Owner's nephew. Accordingly, the CRT concludes that the information provided by the Claimant, combined with the information contained in the Bank's records, plausibly demonstrates that the Claimant is related to the Account Owner.

The documents that were provided by the Claimant which indicate that the Claimant is related to the Account Owner's Heir include the Claimant's own birth certificate, indicating that Franz Carl Johann Perl-Gregor's father was Franz Karl Eduard Perl-Gregor. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the Account Owner's Heir was in direct communication with the Bank after the Second World War, and that the Bank provided the Account Owner's Heir with information about the accounts in March 1949, and indicated to him that it could attempt to unfreeze the proceeds of the accounts on his behalf. The Bank's records further indicate that the accounts were unfrozen around 21 July 1949 and closed on 23 May 1952. Therefore, the CRT concludes that the Account Owner's Heir received the proceeds of the claimed accounts.

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