

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Account of Gabriel Horvath

Claim Numbers: 705526/SB; 787900/SB^{1, 2}

This Certified Denial is based on the claims of [REDACTED] (the “Claimant”) to the account of Gabriel Horvath (the “Account Owner”) at the [REDACTED] (the “Bank”).³

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 Initial Questionnaires asserting that Gabriel Horvath, owned a Swiss bank account. The Claimant stated that his father, [REDACTED], who was Jewish, was a businessman and that during the Second World War Gabriel Horvath, acting on behalf of the Nazis authorities, instructed the Claimant’s father to provide the German and Hungarian armies with supplies. The Claimant further stated that any payments by the Nazis would be paid directly to Gabriel Horvath, and not his father, who would deposit such payments into a Swiss bank account on behalf of his father. The Claimant stated that Gabriel Horvath resided in Budapest, Hungary and that his father, who resided in Sighet, Romania, perished in the Second World War. The Claimant indicated that he was born on 11 May 1930.

¹ The Claimant did not submit a Claim Form to the Claims Resolution Tribunal. However, in 1999 he submitted Initial Questionnaires, numbered ENG 0683080 and ENG 0690154, to the Court in the United States. Although these Initial Questionnaires were not Claim Forms, 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 Initial Questionnaires were forwarded to the CRT and have been assigned claim numbers 705526 and 787900, respectively.

² According to Article 37 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.

³ In these claims, the Claimant also claimed the account of David Berkowitz. The CRT will treat the claims to this account in a separate determination.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998 asserting his entitlement to a Swiss bank account owned by Gabriel Horvath. In a decision dated 24 September 1998, a Sole Arbitrator for the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I” or the “Tribunal”) determined that the name of the bank and details regarding the account be disclosed to the Claimant pursuant to the Tribunal’s Rules of Procedure. This decision did not determine that the Claimant was entitled to the account, only that the Claimant’s claim satisfied the requirements of the Tribunal’s Rules of Procedure and should therefore be resolved by the Tribunal, subject to the Claimant and the Bank signing the required Claims Resolution Agreement (“CRA”). The Bank signed the CRA, but the Claimant, despite four written invitations to sign the CRT over the course of five months, did not. Accordingly, in a decision dated 10 June 1999, the Tribunal informed the Claimant that his claim was closed and that his claim would not be processed further.

The CRT notes that this same account was subsequently reported by the auditors who conducted the investigation of this bank pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), and that the Claimant is therefore claiming the same account that was the subject of the previous investigation in CRT I. The CRT further notes that the details about the account was disclosed to the Claimant during the course of CRT I.

Information Available in the Bank’s Records

The CRT notes that the Claimant submitted a claim to an account belonging to, Gabriel Horvath. The auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) reported one account whose owner’s name matches that provided by the Claimant. The account is identified below by its Account Identification Number, which is a number assigned to the account by the ICEP auditors for tracking purposes.

Account 1007457

The Bank’s records indicate that the Account Owner was Gabriel Horvath, who resided in Hungary. The Bank’s records also indicate the Account Owner’s title, profession, the name of his employer and a second city and country of residence. Finally, the Bank’s records contain the Account Owner’s signature and the date on which he provided his signature.

The CRT’s Analysis

Admissibility of the Claims

The CRT has determined that the claims are admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

Identification of the Account Owner

The CRT concludes that the Claimant has not identified the Account Owner. Although the name matches the published 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 Gabriel Horvath resided in Hungary and was a Nazi party official or representative. In contrast, the Bank's records clearly show that the Account Owner did not act in this capacity and that he resided in another city and country, which the Claimant did not identify. Consequently, the CRT is unable to conclude that the Account Owner and the person named Gabriel Horvath cited by the Claimant are the same person.

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.

Scope of the Denial

The Claimant should be aware that the CRT will carry out further research on his 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
19 March 2007