

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to the Estate of Claimant [REDACTED]¹
represented by [REDACTED]

in re Account of Felix Israel

Claim Number: 201323/HS/LH

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Felix Israel (the “Account Owner”) at the New York 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 a Claim Form identifying the Account Owner as her father, Felix Israel, who was born on 17 August 1881 in Ujscie, Poland, was married to [REDACTED], née [REDACTED], on 19 January 1919 in Berlin, Germany, and divorced in approximately 1926. The Claimant indicated that her father, who was Jewish, resided at Brandenburger Strasse 40 in Berlin until 1934, when he fled to Spain. The Claimant stated that her father resided in Barcelona, Spain, where he sold buttons and owned a business called *Casa Feliz* until he emigrated to Havana, Cuba in January 1941. The Claimant indicated that she resided in Zurich, Switzerland with her mother, who was Swiss, from 1936 until 1941, when the Claimant joined her father in Havana. According to the Claimant, after living for six months in Havana, she and her father emigrated to New York, the United States, on 13 June 1941. The Claimant stated that her father held accounts at the Bank in Zurich and in New York, among other cities, and that he opened the account at the Bank’s New York branch during the period in which he resided in Barcelona. The Claimant indicated that she identified the name of her father on a list published by the World Jewish Congress in 1997. This list contained names of owners of Swiss bank accounts that had been held in New York branches of Swiss banks and that had been frozen on 14 June 1941 pursuant to accordance with the U.S. government’s Trading With The Enemy Act (the “1941 Freeze”). The Claimant stated that this list provided the following information: “Israel, Felix, Address Havana, Cuba, Nationality Unknown, Amount \$3,408.43.” The Claimant

¹ On 12 July 2006, [REDACTED]’s daughter and representative, [REDACTED], informed the CRT that she passed away on 17 May 2006 and provided the CRT with a copy of her death certificate.

further stated that her father moved to California, the United States, in December 1941, where he worked as a chicken farmer until he died in Nevada City, California, on 21 September 1946. In a telephone conversation with the CRT, [REDACTED], the Claimant's daughter and representative, stated that in response to her inquiry regarding her grandfather's account, the Bank provided her with a photocopy of an account card pertaining to his account.

In support of her claim, the Claimant submitted copies of: (1) her father's birth certificate, dated 31 December 1936, indicating that Felix Israel was born on 17 August 1881 in Ujście; (2) a court order from the City Court of New York, dated 8 September 1941, indicating that the Claimant's last name was changed from [REDACTED] to [REDACTED] and that her father was Felix Israel; (3) her father's handwritten will, dated 13 September 1946, designating his daughter, the Claimant, as the sole heir of his estate; (4) letters between her attorney and the Bank, dated 11 and 22 September 1997, indicating that following an inquiry from the Claimant's attorney, the Bank confirmed that her father had an account which was subject to the 1941 Freeze and which was closed in March 1948, that they stated that because the Account Owner resided in the United States, government regulations at the time would have allowed him to make periodic withdrawals from his account for living expenses, and that they concluded that the Account Owner may have utilized this provision of the law to withdraw the assets which had been deposited with the Bank resulting in the closing of the account; and (5) a photocopy of an account card pertaining to her father, which was provided by the Bank and is described in more detail below.

The Claimant indicated that she was born on 17 October 1920 in Berlin, Germany. The Claimant previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by her father.

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 Felix Israel during their investigation of the Bank. The Bank's document was forwarded to the CRT by the Claimant. The Bank's record consists of an account card. According to this record, the Account Owner was Felix Israel who resided in Barcelona, Spain. The Bank's record indicates that the Account Owner held an account of unknown type, numbered 80668, which was closed on 18 March 1948. The amount in the account on the date of its closure is unknown.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the published name of the Account Owner. The Claimant identified the Account

Owner's city and country of residence, which match unpublished information about the Account Owner contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including her father's birth certificate, a court order from the City Court of New York, and her father's handwritten will, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Felix Israel, and indicates that his place of residence was Havana, 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 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 resided in Nazi Germany until 1934, when he fled to Spain in order to avoid Nazi persecution. As noted above, a person named Felix Israel 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 and documents, demonstrating that the Account Owner was the Claimant's father. These documents include a court order from the City Court of New York and her father's handwritten will, indicating that Claimant's father was Felix Israel. There is no information to indicate that the Account Owner has other surviving heirs

The Issue of Who Received the Proceeds

The CRT notes that the letter from the Bank, dated 22 September 1997, indicates that the account was frozen on 14 June 1941 and that, because the Account Owner resided in the United States, government regulations at the time would have allowed him to make periodic withdrawals from his account for living expenses. The letter also stated that the Bank concluded that the Account Owner may have utilized this provision of the law to withdraw the assets which had been deposited with the Bank, resulting in the closing of the account.

The CRT notes that the Account Owner emigrated to the United States on 13 June 1941 and that he died on 21 September 1946. The CRT notes that, as the 1997 letter from the Bank states, because the Account Owner resided in the United States, government regulations at the time would have allowed him to make periodic withdrawals from his account for living expenses. Moreover, because the Account Owner immigrated to the United States before the United States

entered the War, somewhat more liberal rules applied. As Special Master Helen B. Junz noted in a paper for the United States Presidential Advisory Commission,

Having chosen the broad prohibition route in pre-war days, it [Federal Funds Control] came to rely on a far-flung licensing system to meet its objectives during the period of the war. In the process, the accounts of bona fide refugees who had been residing and were domiciled in the United States since June 17, 1940 had been freed with the issuance of General License 42 (GL 42) on June 14, 1941. Recognizing that this rationed out many refugees who had difficulties in obtaining immigration visas, Treasury liberalized the provisions of GL 42 by issuing a new license, General License 42A (GL 42A), which dropped the domicile requirement. On February 23, 1942 there was a further easing of controls for bona fide immigrants and refugees, as GL 42 was amended to include all who had arrived in the United States as of that date and to eliminate the domicile requirement.²

The CRT further notes that, after the signing of the Washington Agreement on 25 May 1946, all Swiss assets deposited in the United States were unfrozen, contingent upon certification of non-enemy interest by the Swiss authorities, and that this was more than three months prior to the Account Owner's death. Given these circumstances, the CRT concludes that the Account Owner received the proceeds of the claimed account.

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.

² For a full history of GL42 and 42A see U.S. Treasury Department, *Documents Pertaining to Foreign Funds Control*, August 16, 1941, General License 42, p. 31, (amended February 23, 1942); *Id.*, March 30, 1942, p. 33; for Press Releases, see pp. 65-66, 68, 75, (Amended August 27, 1946); *Id.*, September 15, 1946, p. 37; for Press Release, see p.85. Also printed in *Federal Register*, see 6 F.R. 2907, 7 F.R. 1492, 11 F.R. 9340. For additional information on General License No. 42, see the following three once confidential circulars: Special Circular No. 27, February 27, 1942; Special Circular No. 30, February 27, 1942; Circular No. 125, March 6, 1942 in U.S. Treasury Department, *Foreign Assets Control, Documents GLN-PT, Vol. 2, GLN-1b, 1c, and 1d. General License 42A, issued on November 27, 1941, amended January 20, 1942, revoked February 23, 1942; see Press Releases pp. 68, 75. For text of General License 42A, see U.S. Treasury Department, Foreign Assets Control, Chronology of Important Regulatory Documents, 1940-1946, Volume 1, 41.121, Vol. 2, 42.14 and 42.34.*

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, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claims 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
18 December 2007