

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]¹

in re Accounts of Andreas Izsak and Elemér Izsak

Claim Number: 725234/MC²

This Certified Denial is based upon the claim of [REDACTED] (the “Claimant”) to the account of Andreas Izsak.³ This Certified Denial is to the unpublished account allegedly owned by Elemér Izsak (“Claimed Account Owner Elemér Izsak”) or Andreas Izsak (“Claimed Account Owner Andreas Izsak”) at the Zurich Branch of the [REDACTED] (the “Bank”).

All denials are published. Where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the claimed account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted an Initial Questionnaire (“IQ”) identifying Claimed Account Owner Andreas Izsak as his paternal grandfather, Andreas Izsak, who was born on 3 August 1890. The Claimant stated that his grandfather, who was Jewish, had two sons, [REDACTED] and [REDACTED]. According to the Claimant, his grandfather resided at 110 St Cuza Voda in the city of Târgu Mureș, Romania, (previously known as Marosvásárhely) from 1934 to 1940. The Claimant further stated that this grandfather remained until 1944 at that same address in that city,

¹ [REDACTED] (the “Claimant”) provided his name and some of his relatives’ names only in Hebrew characters in his Initial Questionnaire (“IQ”). For the purpose of this written decision, the CRT has transliterated these names into Latin characters. However, to match names provided in the IQ with names contained in the banks’ databases, the CRT has used a database created by Yad Vashem, Israel, which provided different variations in Latin characters for each of the names.

² The Claimant did not submit a Claim Form to the CRT. However, in 1999, he submitted an IQ, numbered HEB-0360101, to the Court in the United States. Although the 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 claims 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 725234.

³ In a letter dated 31 October 2007, the CRT informed the Claimant that it did not locate any accounts belonging to Andreas Izsak, [REDACTED] and [REDACTED] 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”). The current decision addresses documents submitted by the Claimant, purporting to evidence the existence of an account owned by Andreas Izsak or Elemér Izsak.

which changed its name to St Lajos Kiraly, when the city was ceded to Hungary from 1940 to 1944. The Claimant explained that his grandfather was first deported to Auschwitz in 1944, and then to Mauthausen concentration camp in Austria, where he perished in May 1945.

In support of his claim, the Claimant submitted a document from the Bank document dated 23 January 1941, which states that Elemér Izsak ordered the Bank to transfer a sum of money to Andreas Izsak. The Claimant, who did not provide any information regarding the identity of Elemér Izsak, asserted that the Bank's document indicates that Andreas Izsak held an account at the Bank, from which money was being transferred to a Youth Village in Palestine (today Israel) named "*Ben Semen*" to pay for the tuition fees of Andreas Izsak's son, [REDACTED].

The Claimant indicated that he was born on 12 November 1959.

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 Andreas Izsak or Elemér Izsak during their investigation of the Bank. The document relating to the existence of an account at the Bank was forwarded by the Claimant to the CRT.

The Bank's record consists of a letter dated 23 January 1941, sent by the Bank and addressed to Andreas Izsak at a Youth Village ("*Kfar Hanoar*") named *Ben Semen*, P.O.B. 883, Tel Aviv, Palestine (now Israel). The letter states that pursuant to a transfer order requested by Elemér Izsak, who resided in Marosvásárhely, Roumania, the Bank was sending Andreas Izsak check number 35784/19 for 8.00 United States Dollars ("US \$"), from which commission and fees amounting to \$0.75 was being deducted, for a net total value of \$7.25.

The CRT's Analysis

Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules").

Basis for the Denial

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 Archives 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 evidencing the existence of an account, 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 a claim after the destructive events of the Second World War, it has determined in this case that the letter executing the transfer order submitted by the Claimant is insufficient to support the existence of a bank account and to justify an award. Although the letter submitted by the Claimant originates from the Bank, it does not indicate the existence of an identifiable account relationship between Elemér Izsak or Andreas Izsak and the Bank, but merely the execution of a transfer order. The CRT notes that Elemér Izsak could have sent money to Andreas Izsak without owning an account with the Bank. The CRT notes that the commission of \$0.75 for the cost of the transaction was deducted by the Bank from the check itself and not from an identifiable account with the Bank. The CRT also notes that the Claimant did not identify Elemér Izsak, or explain why a check was addressed to Andreas Izsak in Palestine (today Israel), even though, according to the Claimant, Andreas Izsak was in Europe at this time and ultimately perished in the Holocaust. As no documentary evidence has been presented which would indicate the existence of an account held by Elemér Izsak or Andreas Izsak, the CRT is unable to make an award to the Claimant based upon the evidence presented.

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 as 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 Weiner, Claims Resolution Tribunal, Attention: Appeals/Request for Reconsideration, P.O. Box 9564, 8036 Zürich, 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
30 August 2010