

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to Claimant Isaac Enrique Havilio

**in re Accounts of Josef Kabiljo**

Claim Number: 201318/MC

This Certified Denial is based upon the claim of Isaac Enrique Havilio (the “Claimant”) to the published accounts of Josef Kabiljo (the “Account Owner”), over which Zlata Kabiljo (“Power of Attorney Holder Zlata Kabiljo”) and Moritz Kabiljo (“Power of Attorney Holder Moritz Kabiljo”) held power of attorney, at the [REDACTED] (the “Bank”).

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 as his father, Josef (Josip, Jose) Kabiljo (Kabilio, Havilio), who was born on 29 December 1895 in Jerusalem, Palestine (now Israel) and was married to the Claimant’s mother, Zlata Kabiljo, née Bajic, in 1929 in Yugoslavia. The Claimant stated that his parents, who were Jewish, resided at Kraalja Ferdinanda Ulica in Belgrade, Yugoslavia (now Serbia) until 1941, and that together they had two children, Saul, who was born on 21 March 1932 in Belgrade, and Isaac Enrique, formerly Harry Isak (the Claimant). The Claimant stated that his father owned a commercial information company called *Hermes* with offices in Belgrade, and that the family traveled to Switzerland to deposit money and gold coins there.

The Claimant stated that following the Nazi occupation of Yugoslavia in 1941, the family was held at Sajmiste concentration camp. The Claimant stated that his family was later freed from the camp, and they fled through Italy and Spain before eventually arriving in Buenos Aires, Argentina, where they resided from May 1942.

In support of his claim, the Claimant submitted a document dated 26 January 1943 from the Yugoslav Consulate in Buenos Aires certifying that the Kabilio family had permanent residence in Buenos Aires, that Mr. José Kabilio was in the process of creating a commercial firm, and that at that date the firm was not yet financially viable and that the family relied on remittances from Palestine. The Claimant also submitted a letter dated 7 June 1946 from the Consulate General of Yugoslavia in New York certifying that Mr. Josif (Jose) Kabilio was the son of Isak and Charlotte Kabilio, née Mandic, that he was born in Jerusalem, and that he was lawfully married

to Mrs. Zlata Kabilio, née Bajic, who was born on 16 April 1908 in Strazeman, Yugoslavia (now Croatia). This letter also states that Mr. Josef (Jose) Kabilio was issued a Yugoslavian passport by the Consulate General in Buenos Aires in 1945, and that Harry Isak Kabilio and Saul Kabilio were the children of Mr. and Mrs. Josef and Zlata Kabilio.

The Claimant submitted additional documents including: 1) his birth certificate, issued by the Hebrew Community of Belgrade, with an official Spanish translation notarized by the Argentine embassy, indicating that Isaac Enrique was born to Jose Havilio and his wife Zlata on 12 November 1930, and that his birth was registered at the Synagogue Ben Jisrael in Belgrade, where he was given his name on 19 November 1930; 2) his parent's Yugoslavian passports, bearing their signatures and indicating that Josef (José) Kabilio was married to Zlata Kabilio and that they had two sons, Saul and Hary Isak; and 3) the Kabilio family's tourist visa for Argentina, dated 1941, indicating that the family held Yugoslavian passports, and that Hary, age 10, and Saul, age 9, were the children of Josef and Zlata Kabilio.

The Claimant previously submitted an Initial Questionnaire ("IQ") with the Court in 1999 asserting his entitlement to a Swiss bank account owned by his father, Josef Kabiljo (Jose Havilio).

The Claimant indicated that he was born on 12 November 1930 in Belgrade.

### **Information Available in the Bank's Records**

The Bank's records consist of two customer cards and ledgers of numbered accounts. 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 the Account Owner's accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents include an account card, a ledger of accounts, and a power of attorney form.

According to these records, the Account Owner was Josef Kabiljo, who resided at Kr. Ferdinanda 2 in Belgrade, Yugoslavia, and the Power of Attorney Holders were Zlata Kabiljo and Moritz Kabiljo. The records show that the Account Owner held two custody accounts, numbered 42860 and 66963, and one account of unknown type, numbered 50366.

With regard to custody account 42860, the records show that Zlata Kabiljo was a Power of Attorney Holder and was allowed to withdraw funds on her own behalf, and that Moritz Kabiljo also held Power of Attorney over the account. The card further states that from 1939 onwards, all correspondence was to be sent to post office box 773 in Belgrade, which belonged to the offices of the *Economic Encyclopedia of the Balkans*. According to the records, custody account 42860 contained gold coins minted by various countries and was held as collateral against a loan or overdraft. The Bank's records indicate that the account was closed on 20 February 1940.

With regard to custody account numbered 66963, the records show that the account was opened via a transfer from another account on 13 February 1940 and closed on 30 April 1940.

According to one of the ledger sheets, the numbered account relationship continued after the April 1940 transfer, and the account was transferred again to New York on 2 June 1943 and subsequently closed.

With regard to the account of unknown type, numbered 50366, the records show that the Account Owner was Mr. Josef Kabiljo, who resided in Buenos Aires, Argentina. The Bank's records indicate that this account was opened on 1 December 1942 and closed on 17 March 1943.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's street address, the Account Owner's subsequent country of residence, and the name of Power of Attorney Holder Zlata Kabiljo, all of which match unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including a document dated 26 January 1943 from the Yugoslav Consulate in Buenos Aires certifying that the Kabiljo family had permanent residence in Buenos Aires; a letter dated 7 June 1946 from the Consulate General of Yugoslavia in New York certifying that Mr. Josif (Jose) Kabiljo was issued a Yugoslavian passport by the Consulate General in Buenos Aires; the Claimant's birth certificate; Josef (José) Kabiljo's Yugoslavian passport; and the Kabiljo family's tourist visa for Argentina.

The CRT notes that the name Josef Kabiljo appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("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 his entitlement to a Swiss bank account owned by Josef Kabiljo, prior to the publication of the ICEP List. This indicates that the Claimant has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his 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 the other claims to these accounts were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owner. 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 has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he was deported to the Sajmiste concentration camp along with his family, and that he and his family eventually fled to Argentina.

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he 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: 1) a letter dated 7 June 1946 from the consulate General of Yugoslavia in New York certifying that Mr. Josif (Jose) Kabilio was married to Mrs. Zlata Kabilio, née Bajic, and that the couple had two children named Harry Isak and Saul; 2) the Claimant's birth certificate, indicating that Isaac Enrique was born to Jose Havelio and his wife Zlata on 12 November 1930; 3) Josef (José) Kabilio's Yugoslavian passport indicating that he was married to Zlata Kabilio, and that they had two sons, Saul and Hary Isak; and 4) the Kabilio family's tourist visa for Argentina, dated 1941, indicating that Saul and Hary were the minor sons of Josef Kabilio. The CRT notes that the Claimant indicated that he has another surviving relative, his brother, Saul, but because he is not represented in the Claimant's claims, the CRT will not treat his potential entitlement to the Account Owner's accounts in this decision.

### The Issue of Who Received the Proceeds

In this case, the Account Owner held two custody accounts and one account of unknown type. With regard to custody account numbered 42860, the Bank's records indicate that the account was closed on 20 February 1940, which is over one year prior to 25 March 1941, the date on which Yugoslavia signed the Tripartite Agreement, formally allying itself with Nazi Germany. Therefore, the CRT concludes that the Account Owner closed this account and received the proceeds of the account himself.

With regard to custody account numbered 66963, the Bank's records show that the account was initially closed on 30 April 1940, but that the account relationship continued, and that the account was again closed per a transfer to New York on 2 June 1943. Given that the Account Owner resided in Buenos Aires at this time, and that this transfer took place less than three months after the Account Owner closed his account numbered 50366, the CRT concludes that the Account Owner maintained dominion over this account, ordered the transfer and received the proceeds himself.

With regard to the account of unknown type numbered 50366 was closed on 17 March 1943, and that the Bank listed the Account Owner's domicile as Buenos Aires in reference to this account. Given that the Account Owner had relocated to Argentina by 1943, and given that the Bank was aware of this change of domicile, the CRT concludes that the Account Owner was able to access the account numbered 66963 that was transferred to New York, and was able to close the account numbered 50366 from Argentina.

Accordingly, the CRT concludes that the Account Owner received the proceeds of the three claimed accounts.

#### 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. The Claimant 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  
30 August 2010