

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Account of D. Kahn
and
Account of Ella Kahn
(Power of Attorney Holder D. Kahn)¹**

Claim Number: 212294/SB²

This Certified Denial is based on the claim of [REDACTED] (the “Claimant”) to an account of Doris Kahn. This Denial is to the published account of D. Kahn (“Account Owner 1”) at the [REDACTED] (the “Bank”) and to the published account of Ella Kahn (“Account Owner 2”), over which D. Kahn (the “Power of Attorney Holder”) held power of attorney, also at 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 asserting that his mother, Doris Kahn, née Erdmann, who was born on 20 February 1891 in Fürth, Germany, and was married to [REDACTED] in Germany, owned a Swiss bank account. The Claimant stated that his mother, who was Jewish, resided in Hildburghausen, Germany until 1932, when she moved to Nürnberg, Germany. According to the Claimant, his mother was a businesswoman and managed the finances of the family. The Claimant further stated that his mother was deported to Riga concentration camp in 1941, where she perished. The Claimant indicated that he was born on 15 October 1915 in Hildburghausen.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Doris Kahn.

¹ In an effort to locate any and all accounts that might have belonged to the Claimant’s relative, the CRT has reviewed and analyzed all accounts whose owners’ or power of attorney holders’ names are the same as that of the Claimant’s relative, even if the Claimant could not identify the owner of the account as his relative.

² The Claimant submitted an Initial Questionnaire with the Court in 1999 and a Claim Form to the CRT. The CRT is treating the Initial Questionnaire and the Claim Form under the consolidated Claim Number 212294. In the Initial Questionnaire the Claimant also claimed the accounts of Emil Schwarzhaupt and Leo Gerngrons. The CRT will treat the claim to these accounts in a separate determination.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Doris Kahn. 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 two accounts whose owner's or power of attorney holder's names match that provided by the Claimant. Each 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 5033129

The Bank's records indicate that Account Owner 1 was D. Kahn, who resided in Baden-Baden, Germany and that the power of attorney holder was Ella Kahn. The Bank's records also indicate Account Owner 1's street address and profession, and further indicate power of attorney holder Ella Kahn's maiden name, street address, city and country of residence.

Account 5027374

The Bank's records indicate that Account Owner 2 was Ella Kahn, who resided in Frankfurt am Main, Germany and that the Power of Attorney Holder was D. Kahn. The Bank's records also indicate Account Owner 2's street address and the Power of Attorney Holder's street address, city and country of residence.

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").

Identification of the Account Owners

As for Account 5033129, the CRT concludes that the Claimant has not identified Account Owner 1 as his relative. Although the name of his mother matches the published first name initial and last name of Account Owner 1, the information provided by the Claimant differs materially from the published and unpublished information about Account Owner 1 available in the Bank's records. Specifically, the Claimant stated that his mother was a businesswoman and managed the finances of the family, whereas the Bank's records indicate that Account Owner 1 had a different profession. Furthermore, the Claimant stated that his mother resided in Hildburghausen and Nuremberg, Germany. In contrast, the Bank's records show that Account Owner 1 resided in Baden-Baden, which is over 250 kilometers from Hildburghausen and over 200 kilometers from Nürnberg. The CRT notes that Hildburghausen and Baden-Baden are relatively small German cities of similar size, and that Nuremberg is a metropolis, rendering it unlikely that a resident of Hildburghausen or Nuremberg would indicate Baden-Baden as his or her city of residence, including for purposes of maintaining a bank account. The CRT also notes

that the Claimant did not identify power of attorney holder Ella Kahn, even though she appears to be related to Account Owner 1. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant's mother are the same person.

As for Account 5027374, the CRT concludes that the Claimant has not identified the Power of Attorney Holder as his relative. Although the name of his mother matches the published first name initial and last name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant stated that his mother resided in Hildburghausen and Nuremberg, Germany. In contrast, the Bank's records show that the Power of Attorney Holder resided in a city, which is over 250 kilometers from Hildburghausen and over 200 kilometers from Nuremberg, a city which the Claimant did not identify. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's mother are the same person. In addition, the CRT notes that the Claimant did not identify Account Owner 2 as his relative, and that under Swiss law, a power of attorney holder is not considered to be the owner of an account. After a power of attorney holder dies, his or her powers in an account no longer exist, and they do not pass to his or her heirs. Therefore, even if the Claimant had identified the Power of Attorney Holder, but not Account Owner 2, as his relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the Power of Attorney Holder and Account Owner 2 were related.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant may appeal this Denial to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision. Appeals should be delivered to the following address: Office of Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001 USA.

The Claimant should send appeals in writing to the above address and should include all reasons for the appeal. If more than one account has been denied in this Certified Denial, the Claimant should identify the Account Identification Number, which forms the basis of the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

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
23 January 2006