

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Accounts of Arthur Klein
and
Account of Marie Gerlipp
(Power of Attorney Holder Adolf Klein)¹**

Claim Number: 600740/MBC²

This Certified Denial is based on the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Adolf (Arthur) Kleinert (Klein). This Denial is to the published accounts of Arthur Klein (“Account Owner 1”) and to the published account of Marie Gerlipp (“Account Owner 2”), over which Adolf Klein (the “Power of Attorney Holder”) held power of attorney, at 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 to the Holocaust Claims Processing Office (“HCPO”) asserting that her maternal uncle, Dr. Adolf (Arthur) Kleinert (Klein), who was born in 1905 in Chmielnik, Poland, and was married to [REDACTED], née [REDACTED], owned a Swiss bank account. The Claimant indicated that her uncle was a wealthy dentist, who owned his own dental practice and dental laboratories as well in Radom, Poland. The Claimant further stated that her uncle paid for her education. The Claimant finally stated that her uncle and aunt and their children, who were Jewish, perished in Auschwitz. The Claimant indicated that she was born on 15 October 1925 in Chmielnik.

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 those of the Claimant’s relative, even if the Claimant could not identify the owner of the account as her relative.

² The Claimant submitted a claim, numbered B-01486, on 5 November 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600740.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, Adolf (Arthur) Kleinert (Klein). 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 name matches that provided by the Claimant and one account whose power of attorney holder's name matches 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.

Accounts 5024922 and 5026767

The Bank's records indicate that Account Owner 1 was Arthur Klein, who resided in Solingen, Germany and that the power of attorney holder was Emilie Klein. Bank 1's records also indicate Account Owner 1's street address, title, profession, and his relationship to the power of attorney holder, as well as the maiden name of the power of attorney holder. Furthermore, the Bank's records indicate the dates of opening of the accounts at issue.

Account 5030321

The Bank's records indicate that Account Owner 2 was *Frau* (Mrs.) Marie Gerlipp, née Mayer, who resided in Mulhouse, France and that the Power of Attorney Holder was Adolf Klein. The Bank's records also indicate the date of opening of the account at issue.

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 Owner

As for Accounts 5024922 and 5026767, the CRT concludes that the Claimant has not identified Account Owner 1 as her relative. Although the name of her uncle matches the published 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 her uncle was a dentist who resided in Poland. In contrast, the Bank's records show that Account Owner 1 had a different profession and that he resided in Germany. Furthermore, the Claimant did not identify the power of attorney holder, who was related to Account Owner 1. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant's uncle are the same person.

As for Account 5030321, the CRT concludes that the Claimant has not identified the Power of Attorney Holder as her relative. Although the name of her uncle matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs from the published information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant stated that her uncle resided in Poland. In contrast, the Bank's records show that Account Owner 2 resided in France. Furthermore, the Claimant did not identify Account Owner 2. Consequently, the CRT is unable to conclude that Power of Attorney Holder and the Claimant's uncle are the same person.

In addition, the CRT notes that the Claimant did not identify Account Owner 2 as her 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 her 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 her 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
30 September 2005