

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial upon Request for Reconsideration

to Claimant [REDACTED]

in re Account of Salamon Kornbaum

Claim Numbers: 707165/MC; 751848/MC¹
Appeal Number: 1624

This Certified Denial is based upon the claims of [REDACTED] (the “Claimant”) to an account potentially owned by his father, Salamon Kornbaum (the “Claimed Account Owner”) at the Zurich 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 claimed account owner, and the bank have been redacted.

Procedural History

In decisions approved by the Court on 4 December 2006 and 28 August 2007, the CRT treated the Claimant’s claim to accounts belonging to Salamon Kornbaum, Fabrica Eskor, Simon Kornbaum, Agneta Kornbaum, Therese Kornbaum, Teresia Partos or Dora Kornbaum. In that decision, the Claimant was informed that the CRT was unable to locate any accounts belonging to the above-named individuals in the Account History Database (“AHD”) prepared pursuant to

¹ In 1998, [REDACTED] (the “Claimant”) submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-BSL-U-71-201-115-321, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. In 1999, the Claimant submitted an Initial Questionnaire (“IQ”), numbered FRE-0003-008, to the Court in the United States. Although neither the ATAG Form nor the IQ were claim forms, the Court, in Orders signed on 30 July 2001 and on 30 December 2004, respectively, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims, and that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process. *See* Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001) and Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form and IQ were forwarded to the CRT and have been assigned Claim Numbers 751848 and 707165, respectively.

The Claimant also submitted an additional claim, which is registered under the Claim Number 206376. In a decision dated 18 January 2008, the CRT treated the Claimant’s claim to the accounts of Salamon Kornbaum, “Esko” and “Tzoor Shalom Coop,” Bimbi Leob, Terezia Partos, Agneta Mirjam-Baila Kornbaum, Simon Kornbaum, Zwi Kornbaum, Dora Kornbaum and Csarni Traubkatz. In a letter dated 28 January 2008, the Claimant appealed that decision. The Claimant’s appeal was summarily denied in a decision dated 24 August 2009.

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”).

In letters dated 5 January 2007 and 11 October 2007, the Claimant requested reconsideration of the two decisions and stated that he had submitted documents with his claim that showed that his father owned an account at the Bank. This decision addresses the documents submitted by the Claimant purporting to evidence the existence of an account at the Bank owned by Salomon Kornbaum.

Information Provided by the Claimant

The Claimant originally submitted an Initial Questionnaire (“IQ”) and an ATAG Ernst & Young claim form (“ATAG Form”), identifying the Claimed Account Owner as his father, Salomon (Salomon, Solomon) Kornbaum, who was born on 18 April 1870 in Podkamien (now Poland). The Claimant indicated that his father was married to [REDACTED], who died prior to 1922, and together they had a daughter named [REDACTED]. According to the Claimant, his father married [REDACTED] on 31 January 1922, and together they had three children, [REDACTED], née [REDACTED], [REDACTED], and [REDACTED] (the Claimant). The Claimant stated that his father, who was Jewish, resided at 6 Alexandri, Sighet (today Romania), and that he owned an import-export business named “Fabrica Eskor” based in Sighet. According to the Claimant, his father conducted business with France, Germany, the United Kingdom, and Czechoslovakia using an account that he held at the Zurich branch of the Bank.

The Claimant stated that on 24 December 1924, his father bought three plots of land in Palestine (now Israel) in partnership with the Tzoor-Shalom Cooperative, which was located in Haifa, for 54 Palestinian pounds. The Claimant also stated that on 12 July 1939, his father made a payment of 900 Piasters to the Tzoor-Shalom Cooperative using his account at the Bank. According to the Claimant, both transactions were recorded on Tzoor-Shalom Cooperative’s balance sheet bearing the number 630. The Claimant stated that prior to his own departure in 1941 to a labor camp, his father informed him of the existence of the account held at the Bank, which contained between 7,000.00 and 8,000.00 Pound Sterling (“£”).

The Claimant stated that his father perished in Auschwitz in May 1944, and that his wife [REDACTED] and daughters [REDACTED] and [REDACTED] perished in Bergen-Belsen in 1945.

In support of his claims, the Claimant submitted copies of documents, including:

- 1) his father’s family certificate issued by the Superintendent Registrar of the city of Sighet, on 28 November 1945, which indicates that Solomon Kornbaum was born on 18 April 1870, that he was Jewish, that he was married to [REDACTED] on 31 January 1922, who was born on 31 March 1889, and that he had three children, [REDACTED], who was born on 17 February 1921,

[REDACTED], who was born on 4 October 1922, and [REDACTED], who was born on 27 March 1929;

2) a deed of inheritance issued by the Sighet Tribunal of Timisoara County on 3 December 1947, which indicates that Solomon Kornbaum and his wife [REDACTED], who were both domiciled in Sighet, Maramures County, died on 30 May 1944 and 9 May 1945, respectively, and that their surviving heirs were their son [REDACTED] and daughter [REDACTED], who were each entitled to an equal share of their father's estate; and

3) a printed advertisement for the Claimant's father's company, including its letterhead, which indicates that *Fabrica Eskor* was owned by Salamon Kornbaum.

Additionally, the Claimant submitted a copy of a letter dated 12 July 1939, as well as an undated sheet from a Hebrew balance book, which includes an entry for 900 unknown units designated under the cursive Hebrew letters "Sch" and "g." These documents are described in detail below.

The Claimant indicated that he was born on 17 February 1921.

Information Available in the Bank's Records

The auditors who carried out the investigation of this Bank to identify accounts of Victims of Nazi Persecution pursuant to the ICEP Investigation did not report an account belonging Salamon Kornbaum. The documents purporting to evidence an account held at the Bank were forwarded by the Claimant to the CRT. The records consist of a letter dated 12 July 1939 as well as an undated sheet from a balance book in Hebrew.

The letter dated 12 July 1939 was sent by Salamon Kornbaum to the Tzoor-Shalom Cooperative of Haifa, identified as Tzur Schalom Co-op Ltd. The letter states: "I assume that you are in possession of 90 Piaster which you received through [the Bank] in Zurich on 12 June of this year, for my benefit, and I kindly request confirmation and credit."² The letter also contains the number "630" along with a handwritten inscription in Hungarian stating that the receipt has been sent.

The undated sheet from the Hebrew balance book is divided into two columns. The liability section of the balance sheet contains one entry dated 24 December 1924 for 3 plots of land with a corresponding value of 54 unknown units, as well as other entries for printing accessories, interests and shares. The asset section of the balance sheet contains five entries dating from 20 June 1924 to 13 January 1926 under the designation "Belnek Bank," as well as one separate entry dated 20 June 1939, designated under the cursive Hebrew letters "Sch" and "g" for 900 unknown units.

The Claimant stated that these documents were found in a file bearing the number 630, which belonged to the Tzoor-Shalom Cooperative Society Ltd, in Israel; that the cursive Hebrew letters entered on the balance sheet stand for the initials of the Bank, and that the specific entry for 900

² The original text reads: "Ich schätze Sie im Besitze, die Ihnen durch [the Bank] in Zürich, am 12 June d J. zugegangene 90 Piaster zu m/Gunsten, und bitte Sie höfl. um Empfangsvestatigung [sic] und Gutschrift." The Claimant stated that the letter contained a typographical error, and that the text should have read "900" Piaster.

unknown units confirms that 900 Piasters were transferred by the Bank to the Tzoor-Shalom Cooperative.

The CRT's Analysis

Basis for the Denial

The CRT notes that the Claimant submitted a letter dated 12 July 1939 from Salamon Kornbaum to the Tzoor-Shalom Cooperative of Haifa, as well as an undated sheet from the Tzoor-Shalom Cooperative's balance book in Hebrew.

According to Article 17 of the Rules, the CRT shall use records and files available from the AHD, the Account Dossiers, and the Total Accounts Database, the information submitted by the Claimants, and to the extent that the CRT deems relevant, other sources of information to determine whether an award is justified. 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 AHD, 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, 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 documents submitted by the Claimant are insufficient to support the existence of Holocaust-era accounts held at the Banks. In this case, the Claimant submitted a letter dated 12 July 1939 and an undated sheet from the Tzoor-Shalom Cooperative's balance book. The CRT notes that neither document was issued by the Bank. Further, the text of the letter indicates that money was transferred by the Bank to the Tzoor-Shalom Cooperative for the benefit of Salamon Kornbaum. The letter does not, however, confirm that Salamon Kornbaum held an account at the Bank.

In his appeal, the Claimant stated that "this money could be sent by this bank only because my father had an account there, and an account in credit. There is no other possible explanation." However, it is not necessary to hold an account in order to transfer money through a bank. The letter shows that the Bank was used as a conduit for the transfer, but does not provide definitive proof of the existence of an account held in the name of Salamon Kornbaum. Specifically, the German text of the letter states that the money was transferred "through" ("*durch*") the Bank, and not from ("*von*") an account belonging to him at the Bank. Therefore, this letter merely shows that the Bank acted as a conduit for this payment, not that Salomon Kornbaum held an account there. The CRT also notes that the letter confirms that this amount was, in fact, received

by Tzoor-Shalom Cooperative. Consequently, the CRT is unable to conclude that the letter establishes Salamon Kornbaum's ownership of an account at the Bank.³

The CRT further notes that the undated sheet from the Tzoor-Shalom Cooperative's balance book in Hebrew containing the English equivalent of the Hebrew initials "Sch" and "g" does not conclusively prove that Salamon Kornbaum held an account at the Bank. First, this undated excerpt from a balance book is neither an official government document nor a document issued by the Bank. Second, even if the CRT were to accept the Claimant's assertions that the Hebrew initials stand for the name of the Bank, and that both documents originate from Tzoor-Shalom Cooperative's file number 630, the balance sheet would merely indicate that the Tzoor-Shalom Cooperative recorded a payment of 900 Piasters from a transfer made *through* the Bank on 12 July 1939 for the benefit of Salamon Kornbaum. As previously stated, the mere reference of a money transfer made by the Bank is insufficient to evidence Salamon Kornbaum's ownership of an account at that Bank.

For all these reasons, the CRT is unable to make an award to the Claimant based upon these documents. The CRT notes that, despite the absence of records showing an awardable account in this case, the Claimant's claim was determined to contain sufficient information to warrant a Plausible Undocumented Award ("PUA"). For this PUA, the Claimant received the amount of US \$5,000.00 in October 2006 and a second payment of US \$2,250.00 in September 2010, for a total payment of US \$7,250.00.

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.

³ For another case in which a claimant submitted a document showing that a Swiss bank served merely as a conduit for a transfer, see *In re Account of Eva Gabor* (approved by the Court on 17 September 2010). In that case, the Claimant submitted a receipt that showed that a Swiss bank had received a payment order and that, pursuant to that order, had paid an amount that it had received from another banking institution to the Claimant. See also *In re Accounts of Walter Kary* (approved by the Court on 17 September 2010). In that case, the Claimant submitted a copy of his father's passport that contained stamps showing that his father bought currency for the purposes of traveling and notes from three Swiss banks at which his father cashed travelers' checks that referred to a "Reiseverkehrskonto," or tourist trade account. See also *In re Account of Desidor Zemanek and Margit Zemanek* (approved by the Court on 17 September 2010). In this case, the Claimant submitted a copy of a letter from a Swiss bank that stated that it was provided with a check issued by another Swiss bank made out to the Guaranty Trust Company of New York, with the explicit instructions that the funds would be used to open an account at the National City Bank of New York in the names of the Claimant's relatives. In all these cases, the CRT determined that even though documents submitted by the Claimants showed that transactions were conducted through Swiss banks, they did not demonstrate that the Claimants' relatives held accounts at the banks.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: 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 upon Request for Reconsideration

The CRT certifies this Denial upon Request for Reconsideration for approval by the Court.

Claims Resolution Tribunal
24 March 2011