

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]
represented by Erez Bernstein

in re Account of Richard Kronstein (Trustee)

Claim Number: 501870/MC

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Richard Kronstein. This Denial is to the account held by another individual (the “Account Owner”), to which Richard Kronstein was a trustee (“*Treuhändler*”), at the Zurich branch of [REDACTED] (the “Bank”).¹

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 banks have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Richard Kronstein as her father-in-law, who was born on 19 September 1894 in Austria, and who had a brother named [REDACTED]. The Claimant stated that her late husband, [REDACTED], was Richard Kronstein’s son and that he was born on 31 December 1922 in Vienna, Austria. According to the Claimant, her father-in-law, who was Jewish, was a banker, who worked and resided both in Zug, Switzerland, and in Vienna. The Claimant stated that her father-in-law died on 7 June 1971 in Zug, and that her husband, [REDACTED], died on 10 October 2002 in Ontario, Canada.

¹ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution (“ICEP” or the “ICEP List”), Richard Kronstein appears as the owner of an account over which Hans Hamburger, Robert Kronstein and *Frau* (“Mrs.”) Ida Levy held power of attorney. Upon careful review, the CRT has determined that Richard Kronstein was actually only a trustee (“*Treuhändler*”) of the account; that Robert Kronstein and Hans Hamburger were substitute trustees named to replace the original trustee upon his death or incapacity (“*im Falle eines Todes oder Handelsunfähigkeit des Treuhändler, ... als Ersatz eintreten*”); that Ida Levy held power of attorney over the account; and that the account was held by another individual, who does not appear to be related to any of the other persons listed in connection with the account.

In support of her claim, the Claimant submitted copies of documents, including:

- 1) her father-in-law's will, which indicates that Richard Alexander Kronstein, who was born on 19 September 1894, was originally from Vienna, that he was a banker who resided in Zug, Switzerland, that he passed away on 7 June 1971, and that he named his son, [REDACTED], who was born on 31 December 1922, as his sole heir;
- 2) her marriage certificate, which indicates that [REDACTED] married [REDACTED] in Ontario, Canada;
- 3) her husband's death certificate, which indicates that [REDACTED] passed away on 10 October 2002; and
- 4) her husband's last will, which identifies her as the beneficiary of [REDACTED]'s residual estate.

The Claimant indicated that she was born on 7 July 1940 in Austria.

Information Available in the Bank's Records

The Bank's records consist of signature sample cards, a handwritten letter dated 7 September 1931 addressed to the Zurich branch of the Bank, a power of attorney form, documents relating to the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), and printouts from the Bank's database.

These records identify the owner of the account and the owner's city and country of residence and indicate that the trustee to the account was Richard Kronstein. The letter dated 7 September 1931 states that [REDACTED] and [REDACTED] were to be named substitute trustees in case of the death or incapacity of the original trustee ("*im Falle eines Todes oder Handelsunfähigkeit des Treuhändlers, ... als Ersatz eintreten*"). The CRT notes that this is the only dated document that contains the name of Richard Kronstein. The undated signature cards contain the signatures of both Richard Kronstein and the owner of the account. According to the power of attorney form contained in the bank records, the owner of the account granted power of attorney over the account to Mrs. Ida Levy on 11 May 1932. This power of attorney form does not reference the names of the trustee or substitute trustees to the account. The CRT notes that all the other dated documents, including those relating to the 1945 Freeze, under which the account was frozen, only refer to the name of the actual owner of the account.

Information Available from Austrian State Archive and German Archival Sources

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Richard Kronstein, numbered 50872. These documents include a letter from Richard Kronstein, represented by his attorney Dr. Robert Röhri, dated 1 August 1938 to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property

(*Vermögensverkehrsstelle* or “VVSt.”) requesting an extension of the deadline to file his asset declaration. In that letter, Richard Kronstein explains that he had resided in Zug, Switzerland, since 1933. He stated that his only asset within the German Reich was a house in Vienna that had already been confiscated and for which it was impossible to declare at the moment. The documents also include a letter dated 8 August 1938 from the VVSt. to Dr. Robert Röhri stating that since his client [REDACTED] resided outside the Reich (“*im Ausland*”), he was to submit his asset declaration to the chief of police (“*Polizeipräsidenten*”) in Berlin, who was also responsible for granting any extensions.

There is also a file regarding Richard Kronstein in the Archive of the Regional Tax Office in Berlin (*Oberfinanzdirektion Berlin*), numbered 911/5306. This file also contains Mr. Kronstein’s letter dated 1 August 1938 seeking an extension for the filing of his asset declaration and the VVSt.’s reply of 8 August 1938, directing him to the chief of police in Berlin. The file also contains a letter dated 18 August 1938 from the chief of police in Berlin to Dr. Röhri in response to the extension request. The letter states that a provisional declaration should be filed estimating the value of Mr. Kronstein’s assets as of 31 July 1938. The letter states that the request for an extension would be reviewed, but that no release could be granted for the filing of a provisional declaration. The letter concludes by noting that a fee of RM 5.00 would be charged for the extension, and that this amount should be submitted with the provisional declaration.

This file also contains Richard Kronstein’s asset declaration, which was signed on 31 October 1938. According to this declaration, Richard Kronstein was born on 19 September 1894, was married to [REDACTED], née [REDACTED], was a bank director and resided in Zug, Switzerland since 1933. On his asset declaration, Richard Kronstein noted that he was represented by Dr. Robert Röhri in Vienna.

In his declaration, Richard Kronstein reported owning a house in Vienna, which was confiscated following the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”) and assigned to the office of the Air Force in Vienna (“*Luftamt Wien*”) for its use. Mr. Kronstein noted that he had no access to the house and that he was paid no rent by the Air Force for its use. He wrote that he therefore could only estimate its value, which he declared as 100,000.00 Reichsmark (“RM”). Mr. Kronstein also declared owning shares in a bank named “Arbitrium,” which was located in Zug, Switzerland. He did not state where these shares were held. Mr. Kronstein also declared owning four insurance policies with a total estimated value of RM 20,653.50.

The records from the Regional Tax Office in Berlin also contain an update to Richard Kronstein’s asset declaration, dated 2 January 1939. In this update, Mr. Kronstein stated that his total assets since his original declaration had declined due to fees he owed to Dr. Röhri; to a decline in the value of some of his insurance policies; to costs charged to him that were accrued by the use of his house by the office of the Air Force in Vienna; and to interest he owed on a mortgage. He thus declared his total assets as of 12 November 1938 as being worth RM 58,989.73, from which he calculated owing atonement tax (“*Judenvermögensabgabe*”) in the amount of RM 11,600.00. The file contains a form dated 13 January 1939 showing the calculation of atonement tax, including the total due of RM 11,600.00, payable in four instalments of RM 2,900.00.

The file also contains a letter dated 30 January 1939 from Richard Kronstein to the Tax Office (“*Finanzamt*”) Moabit-West, department for persons with limited tax obligations (“*Abt. für beschränkt Steuerpflichtige*”) referencing the 13 January 1939 assessment of his atonement tax and noting that he had been given a three week deadline for payment. In this letter, Mr. Kronstein notes that he has no liquid funds available to pay this tax in cash, and therefore offers his house in Vienna as a “security deposit” for the tax owed. He states that he planned to sell the house and had already taken the necessary steps, and that he hoped to be able to pay the atonement tax from the proceeds of the sale in the near future.

These records make no mention of assets held in a Swiss bank account. The CRT notes that Richard Kronstein did declare owning shares in a bank located in Zug, Switzerland, but that he did not indicate where these shares were located. The CRT also notes that the correspondence contained in Mr. Kronstein’s 1938 Census file indicates that he had no liquid assets, and that he had to rely on the proceeds from the sale of his house in Vienna to pay the atonement tax that had been assessed against him. It is clear from this correspondence that these shares were not sold to pay any discriminatory taxes, even if they were deposited in Switzerland. The CRT further notes that all the documentation indicates that Richard Kronstein resided in Switzerland since 1933, that he was a banker and private asset manager (acting, among other capacities, as the trustee to the account addressed in this decision), and that these shares most likely represent shares Mr. Kronstein held in a private business partnership, thus not available for public trade or transfer. The reference to these shares thus does not constitute evidence of assets deposited in Switzerland appropriate for an award.

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

The CRT notes that the Claimant did not identify the owner of the account. However, the Claimant has plausibly identified the person named as trustee to the account. The Claimant’s father-in-law’s name matches the published name of the person named as trustee to the account. The Claimant also stated that Richard Kronstein had a brother named [REDACTED], which matches the name of a substitute trustee contained in the Bank’s records. Finally, the Claimant identified her relative’s date of birth, profession, cities and countries of residence which match the information contained in the archival records regarding Richard Kronstein.

The CRT notes that the other claim to the name Richard Kronstein was disconfirmed because that claimant provided a different city of residence than that of Richard Kronstein.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has not identified the owner of the account, but she has made a plausible showing that the trustee to the account was a Victim of Nazi Persecution. The Claimant stated that the trustee to the account was Jewish, and that although he resided in Switzerland, his house, which was located in Austria, was seized by the Nazis. Moreover, the CRT notes that the trustee to the account was required to register his assets pursuant to the 1938 Census.

Claimant's Relationship to the Account Owner and Entitlement to the Account

The CRT notes that although the Claimant identified the trustee to the account, she has not identified the owner of the account. The CRT notes that the Bank's records do not indicate that the trustee had an ownership interest in the account, and that the role of a trustee is to administer assets in an account. The CRT also notes that the records refer to persons who were to replace the trustee in the even of his death or incapacity. This power of substitution indicates that the trustee did not have an ownership interest in the account, but acted simply in a managerial capacity. The CRT also notes that information provided by the Claimant and contained in his asset declaration indicate that Richard Kronstein resided in Zug, Switzerland since 1933, and that he worked there as a banker, supporting the conclusion that Richard Kronstein was acting in a managerial capacity for the owner of the account, who was likely his client. The CRT also notes that the only dated bank record containing the name of the trustee is dated 1931; that the power of attorney form signed by the owner of the account in 1932 does not reference the name of the trustee or any of the substitute trustees, and that all the dated records from the 1940s and dealing with the account's fate in the 1945 Freeze refer only to the actual owner of the account, not to the trustees or any of the substitute trustees.

The CRT also notes that there is no evidence in the Bank's records that the actual owner of the account was in any way related to the trustee or the substitute trustees, and that the Claimant did not identify the name of the owner of the account. Therefore, in the absence of a family relationship between the account owner and the trustee, or a will or other testamentary document demonstrating that the Claimant is a beneficiary of the account owner, the CRT concludes that the Claimant is not entitled to the claimed account.

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
17 September 2010