

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Guillermo Enrique Loew

in re Account of Ernst Loew (Power of Attorney Holder)

Claim Number: 500554/MC

This Certified Denial is based on the claim of Guillermo Enrique Loew (the “Claimant”) to the accounts of Wilhelm Loew and Ernst Loew. The CRT did not locate an account belonging to Wilhelm Loew in the Account History Database prepared pursuant to 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”). This Denial is to an account published under the name of Ernst Loew (the “Power of Attorney Holder”), who was granted power of attorney by another individual to inquire with the Zurich branch of the [REDACTED] (the “Bank”) about opening a family foundation or holding company in Switzerland on behalf of that other individual.¹

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 his paternal grandfather’s brother as Dr. Ernst Loew, who was Jewish and who was born on 1 August 1879. The Claimant stated that his great-uncle, who was Jewish, was an attorney who lived in Vienna, Austria. The Claimant explained that his great-grandparents were Adolf Loew and Anna Loew, née Sonnenschein, and that they had five children: Ernst, Wilhelm Loew (the Claimant’s paternal grandfather), Friedrich, Elsa, and Jenny. The Claimant explained that Ernst, Wilhelm, and Friedrich Loew all worked as attorneys, and that Ernst’s office was located at Kärntnerstrasse 7 in Vienna. The Claimant stated indicated that after the incorporation of Austria into the German Reich in March 1938 (the “Anschluss”), his grandfather fled Vienna and was able to emigrate to Argentina, where he died

¹ The CRT notes that 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”), Ernst Loew is identified as an owner of an account. Upon careful review, the CRT has determined that the Bank’s records indicate that Ernst Loew merely acted on behalf of another individual to inquire with the Bank about the possibility of opening a family foundation or holding company in Switzerland on behalf of that other individual.

on 19 November 1944. The Claimant stated that his grandfather married Melanie Loew, née Türk, and that they had one child, Paul Gerhard Loew (the Claimant's father).

The Claimant submitted documents in support of his claim, including:

- 1) his grandfather's death certificate, indicating that Guillermo Loew was the son of Adolf and Anna Loew, that he was a lawyer from Austria, and that he died on 18 November 1944 in Buenos Aires, Argentina;
- 2) his father's birth certificate, issued by the Jewish Community of Vienna, Austria, indicating that Paul Gerhard Loew was born on 2 April 1911 in Vienna to Dr. Wilhelm Loew and Melanie Loew;
- 3) an excerpt from the Buenos Aires' registry of marriages and births, indicating that on 16 January 1940, Pablo Gerardo Loew, who was originally from Vienna, and who was the son of Guillermo Loew and Melanie Loew, née Türk, married Raquel Kawenoki from Lodz, Poland, in Buenos Aires, and that they had two children, Viviana Ana Loew and Guillermo Enrique, who was born on 3 November 1945; and
- 4) his father's death certificate, indicating that Paul Loew was born on 2 April 1911 in Vienna, that he was the son of Guillermo Loew, and that he died on 18 August 1995 in Argentina.

The Claimant indicated that he was born on 3 November 1945 in Argentina.

Information Available in the Bank Records

The Bank's records consist of printouts from the Bank's database of basic client documents and correspondence between the Bank and Dr. Ernst Loew, who was an attorney with offices at Kärntnerstrasse 7 in Vienna I. The documents in the Bank's file include letters dated December 1937 through January 1938 between the Bank and Dr. Loew regarding the necessary power of attorney forms needed by the Bank in order to recognize Dr. Loew as a person acting on behalf of another individual. According to these records, Dr. Loew was acting on behalf of another individual to inquire about establishing a family foundation or holding company for that other individual.

The Bank's records also include a letter dated 26 January 1938 from the Bank to Dr. Ernst Loew. In that letter, the Bank noted that Dr. Loew's client had inquired whether a family foundation based in Switzerland was legally capable of owning real estate, or whether a holding company was the more appropriate vehicle for such purposes. The Bank noted that legally, both such legal entities were capable of owning real estate, but that every situation was different, and that all possible solutions should be explored in order to determine the one best suited to the client's needs. The Bank noted that, for various reasons, such problems should be addressed orally rather than in writing, and offered its special experience in this area in order to assist his client. There is no evidence in the records that any legal entity was ever established by Dr. Loew through the Bank on behalf of this client, or that any assets were deposited at the Bank by Dr. Loew either for himself personally or on behalf of his client.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, 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 Dr. Ernst Loew and Dr. Wilhelm Loew, numbered 17317 and 39465, respectively.

The records regarding Dr. Ernst Loew show that he was born on 1 August 1879 and was married to Julia Loew, née Weiss. These records indicate that Dr. Loew lived at Dr. Karl Luegerringstrasse 8 in Vienna, and that his law practice was located at Kärntnerstrasse 7 in Vienna. These records make no mention of assets held in a Swiss bank account.

The records regarding Dr. Wilhelm Loew include his asset declaration, which he signed in Vienna on 15 July 1938. According to his asset declaration, Wilhelm Loew was born on 7 February 1878, was Jewish, was married to Melanie Loew, née Türk, and resided at Hofstattgasse 25 in Vienna XVIII. This file also contains Dr. Wilhelm Loew’s flight tax assessment, dated 12 December 1939, which indicates that his total assets had been determined to be 101,540.00 Reichsmark (“RM”), that he was assessed RM 17,000.00 in atonement tax, and that his flight tax was assessed at RM 21,139.00 and was due on 30 December 1939. This file also contains a letter dated 28 April 1941 from the

The CRT’s Analysis

Identification of the Power of Attorney Holder

The CRT notes that the Claimant identified his great-uncle as the person who dealt with the Bank on behalf of another individual. The Claimant identified the name, profession, street address, and city and country of residence of the person who contacted the Bank on behalf of another individual. The CRT notes that the Bank’s records indicate that the Claimant’s relative did not act in his own interest, but only on behalf of another individual, and that the records do not indicate that an account was ever established at the Bank. The CRT notes that the Claimant did not identify the person on whose behalf his great-uncle acted.

Status of the Power of Attorney Holder as a Victim of Nazi Persecution

The Claimant has not identified the owner of the account, but he has made a plausible showing that the person who consulted with the Bank on behalf of another individual was a Victim of Nazi Persecution. The Claimant stated that his great-uncle was Jewish, and that he resided in Austria after the *Anschluss*. The CRT notes that Dr. Ernst Loew was required to register his assets pursuant to the 1938 Census.

Claimant’s Relationship to the Power of Attorney Holder and Entitlement to the Account

The CRT notes that the Claimant identified his relative as the person who was authorized by another individual to contact the Bank regarding the establishment of a family foundation or

holding company. The person whom the Claimant's relative represented has a different surname and does not appear to be related to Dr. Ernst Loew in any way. The CRT notes 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. Moreover, the Claimant has not provided a will or other inheritance documents of the person whom his relative was representing that would indicate that he would be entitled to any of his assets. Accordingly, the CRT concludes that the Claimant is not entitled to the claimed account.

Furthermore, the CRT notes that the Bank's records only include documents showing that the Claimant's relative inquired with the Bank about the possibility of opening a family foundation or holding company on behalf of another individual, but there is no indication that such a foundation or holding company, together with an accompanying account at the Bank, was, in fact, ever created. Thus, even if the Claimant had identified the person whom his great-uncle represented and had shown that he was entitled to his assets (which he has not), there is no indication that this person ever had assets deposited in Switzerland.

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 claims. 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