

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Herbert Wiener
represented by Edith G. Wiener

**in re Account of Irene Miks
(Power of Attorney Holder H. Wiener)**

Claim Number: 400499/MG

This Certified Denial is based on the claim of Herbert Wiener (the “Claimant”) to an account of Hugo Wiener. This Denial is to the published account of Irene Miks (the “Account Owner”), over which H. Wiener (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (the “Bank”).

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 in 2005 asserting that his paternal uncle, Hugo Wiener, who was born on 1 April 1892 in Vienna, Austria, owned a Swiss bank account or was a power of attorney holder to a Swiss bank account. The Claimant stated that his uncle, who was Jewish, was a salesman, that he never married, and that he resided in Vienna. According to the Claimant, his uncle fled Austria to Italy because of Nazi persecution and later emigrated to the United States. The Claimant stated that his uncle died in September 1965 in Vienna. The Claimant indicated that he was born on 31 August 1920 in Vienna.

Information Available in the Bank’s Records

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Hugo Wiener. 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 one account whose power of attorney holder’s name matches that provided by the Claimant. The 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 5036026

The Bank's records indicate that the Account Owner was Irene Miks, and that the Power of Attorney Holder was H. Wiener. The Bank's records also indicate the Account Owner's street address, city and country of residence, a second city and country of residence and the name of a joint account owner. The Bank's records further indicate the Power of Attorney Holder's full first name, profession, title, street address, city and country of residence, and a second city and country of residence. Furthermore, the Bank's records indicate the dates on which power of attorneys were granted. Finally, the Bank's records contain the Account Owner's and the Power of Attorney Holder's signatures.

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 concludes that the Claimant has not identified the Power of Attorney Holder as his relative. Although the name of his uncle matches the published 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 uncle's first name was Hugo and that he was a salesman. In contrast, the Bank's records show that the Power of Attorney Holder had a different first name and a different profession. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's uncle are the same person.

In addition, the CRT notes that the Claimant did not identify the Account Owner 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 the Account Owner, 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 the Account Owner 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
9 November 2006