

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Accounts of Djardje Minh, Account ADIZA (code name),
and Account Number Cque 1488**

Claim Numbers: 735920/MC; 735947/MC¹

This Certified Denial is based on the claims of [REDACTED] (the “Claimant”) to the accounts of Adolf Münch, Elisabeth Maria Minh, Djardje Minh, an account with the code name “ADIZA” and an account numbered Cque 1488. The CRT did not locate any accounts belonging to Adolf Münch, Elisabeth Maria Minh (Münch), Djardje Minh or identified by the code name “ADIZA” or under the number Cque 1488 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 Certified Denial is to the accounts potentially owned by Djardje Minh and/or held under the code name “ADIZA” or account number Cque 1488 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 claimed account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted two Initial Questionnaires (“IQs”) identifying his paternal grandfather as [REDACTED] (later [REDACTED]), who was born on 19 May 1880 in Paraćin, Serbia; his wife as [REDACTED] (later [REDACTED]), née [REDACTED]; and their son as his father, George (Djardje) Münch (Minh), who was born on 10 November 1920, in Belgrade, Yugoslavia (today Serbia).

¹ The Claimant did not submit a Claim Form to the CRT. However, in 1999, he submitted two Initial Questionnaires (“IQs”), numbered POR 0006 125, and POR 0007 092, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim numbers 735920 and 735947, respectively.

The Claimant stated that his grandfather, who was Jewish but who later converted to Catholicism, was a successful businessman who worked in the mining, sugar and banking industries, and that he and his family resided at 15 Vojvode Protića in Belgrade. The Claimant stated that his grandfather was the director and co-owner of a Serbian mining company named *Steinkohlenberg-werk Rtanj Brüder Münch A.G.*, that he was the president of the board of directors of the *Yugoslav Credit Company Ltd.*, and that he owned shares of various companies. The Claimant explained that following the Nazi occupation of Yugoslavia, his grandfather, whose Belgrade residence had been bombed, committed suicide in the early morning of 26 April 1941 upon learning of his impending arrest and interrogation by the *Gestapo*.

The Claimant stated that in 1939, his father moved to Saint Gallen, Switzerland, to study, and returned to Belgrade in the summer of 1940 to spend the summer vacation with the rest of his family before returning to Switzerland. The Claimant explained that his father wanted to return to Belgrade following his father's suicide, but his mother, who was not Jewish, would not allow it, so he remained in Switzerland until the end of the Second World War. The Claimant stated that in 1947, his family applied for visas to emigrate to the United States, but only his grandmother obtained one in 1948. The Claimant stated that his father emigrated to Brazil, where he passed away on 12 March 1979.

In support of his claims, the Claimant submitted voluminous documentation, including:

- (1) his grandfather's death certificate, which indicates that [REDACTED] was born on 19 April 1880 in Paraćin, Serbia, that he was married to [REDACTED], née [REDACTED], and that he died on 28 April 1941, in Belgrade, Yugoslavia;
- (2) a memorandum written by his grandmother on 14 July 1960, which was submitted to German authorities as part of a claim she filed for compensation for property loss stemming from the Nazi occupation of Yugoslavia, which indicates that the Claimant's father resided in Switzerland during the Second World War;
- (3) a letter dated 8 October 1962, sent by his grandmother to the Claimant's father, which refers to George Minh as Djordje ("*Mein Djordje*");
- (4) his grandmother's will and death certificate, which indicate that [REDACTED] died on 10 April 1970, and that her residual property was to be inherited by her children, [REDACTED] and George Minh; and
- (5) his father's death certificate, which indicates that George Minh was the son of [REDACTED], that he was of Yugoslavian citizenship, and that he died on 12 March 1979 in Brazil, where he resided.

The Claimant also submitted documents purportedly evidencing the existence of accounts held at the Bank, which are described in more detail below.

The Claimant indicated that he was born on 21 August 1965.

Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of this Bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report any accounts belonging to Adolf Münch (Minh) or to Djardje (George) Minh or held under the code name ADIZA or under the number Cque 1488 during their investigation of the Bank.

The documents purportedly showing the existence of accounts at the Bank were forwarded by the Claimant to the CRT. These documents include:

1. A bank statement, dated 30 June 1940, which includes the code name 'ADIZA', that refers to a demand deposit account denominated in United States dollars ("US \$") at the Zurich branch of the Bank. This statement does not indicate the name of the owner of the account or a closing date of the account. According to this statement, the owner of the account initiated various transactions from 1 February 1940 to 26 June 1940, including a transfer to Chase National Bank on 17 June 1940. The statement indicates that balance of the account was US \$4,407.30 as of 30 June 1940.
2. A bank statement dated 30 June 1951 that refers to a demand deposit account numbered Cque 1488 denominated in Swiss Francs ("SF") at the Zurich branch of the Bank. This statement does not indicate the name of the owner of the account or a closing date of the account. According to this statement, the owner of the account initiated various transactions from 22 December 1950 to 19 June 1951, and the balance of the account was SF 220.00 as of 30 June 1951.
3. A deposit slip issued by the Geneva branch of the Bank to Djardje Minh of Geneva, dated 12 May 1944, acknowledging receipt of savings passbook numbered 6709. This document does not indicate when the account at issue was closed, nor does it indicate the value of this account.

The Claimant asserted that these documents show that his father and grandfather jointly held a demand deposit account under the code name "ADIZA" at the Zurich branch of the Bank, that his grandfather owned a demand deposit account numbered Cque 1488 at the Zurich branch of the Bank, and that his father deposited a savings passbook numbered 6709 at the Geneva branch of the Bank on 12 May 1944.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimant in one proceeding.

Basis for the Denial

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.

In this case, with regard to the savings passbook number 6709, the Claimant submitted a receipt issued by the Bank that indicates that the Claimant's father, Djardje Minh, deposited a savings passbook numbered 6709 at the Geneva branch of the Bank on 12 May 1944. This document is sufficient to establish that Djardje Minh owned a Swiss bank account during the Relevant Period, which is defined by the Rules Governing the Claims Resolution Process, as amended, as the period from 1933 to 1945. The CRT notes, however, that the Claimant stated, and provided documentation showing, that his father moved to Switzerland in 1939 and remained there, with the sole exception of the summer of 1940 (which he spent with his parents in Belgrade), until the end of the Second World War. The Claimant also stated that his paternal grandfather was Jewish and committed suicide on 26 April 1941, and that his paternal grandmother was not Jewish. The Claimant also stated that his father later emigrated to Brazil, where he passed away on 12 March 1979. Given that Djardje Minh resided outside of Nazi-dominated territory when he deposited the savings passbook at the Bank on 12 May 1944, that he did not return to Nazi-dominated territory after that time; that his mother, who remained behind in Belgrade, was not Jewish; and that Djardje Minh survived the War and later emigrated to Brazil, the CRT concludes that Djardje Minh retained dominion over this account and received the proceeds himself.

With regard to the Claimant's claims to accounts held under the code name "ADIZA" and under the number Cque 1488, the CRT concludes that two statements dated 30 June 1940 and 30 June 1951, respectively, that were submitted by the Claimant are insufficient to establish the existence of awardable accounts. While the CRT bears in mind the difficulties of proving the existence of an account after the destruction of the Second World War, it has determined in this case that the documents submitted by the Claimant do not establish that the accounts at issue were held by his relatives. The CRT notes that neither statement submitted by the Claimant contains the name of the owner of the account. Thus, the CRT cannot determine who held the accounts at issue, *i.e.*, whether the accounts were held by a relative of the Claimant or by someone else entirely. Accordingly, the CRT is unable to make an award to the Claimant based upon this evidence.

Moreover, with regard to the statement dated 30 June 1951 and referring to a demand deposit account numbered Cque 1488, the CRT further notes that the statement does not indicate that the account existed during the Relevant Period, which is defined by the Rules as the period from 1933 to 1945, and is thus insufficient to evidence the existence of a Holocaust-era Swiss bank account. However, even if the account existed during the Relevant Period (which has not been established), and even if the account belonged to a relative of the Claimant (which the document does not establish), the CRT notes that the statement shows that the owner of the account initiated various transactions on the account from 22 December 1950 through 19 June 1951. Accordingly, the owner of this account maintained dominion over the assets in it and actively managed the account in the post-War years. Therefore, even if this document showed the existence of a Holocaust-era Swiss bank account held by a relative of the Claimant, no award would be appropriate.

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. Claimants 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