

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant David Muller
also acting on behalf of James Muller, Eric Muller, Martha Radetsky
Robert Muller and Ruth Radetsky

**in re Account of Leopold Müller
and
Account of Berta Bajenski
(Power of Attorney Holder L. Mueller)¹**

Claim Number: 400344/SB

This Certified Denial is based on the claim of David Muller (the “Claimant”) to the published account of Leopold Müller. This Denial is to the published account of Leopold Müller (“Account Owner 1”) at the [REDACTED] (“Bank 1”) and to the published account of Berta Bajenski (“Account Owner 2”), over which L. Mueller (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (“Bank 2”).

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 great-uncle, Leopold Müller, who was born on 25 February 1889 in Wertheim, Germany, and was married to Irene Hofmann, owned a Swiss bank account. The Claimant stated that his great-uncle, who was Jewish, was a salesman who resided in Bad Kissingen, Germany until his deportation in 1942. The Claimant further stated that his great-uncle perished in Izbica, Poland. The Claimant indicated that he was born on 1 October 1959 in New Jersey, the United States.

Information Available in the Bank’s Records

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Leopold Müller. The auditors who carried out the investigation to identify accounts of Victims

¹ In an effort to locate any and all accounts that might have belonged to the Claimant’s relative, the CRT has reviewed and analyzed all accounts whose owners’ or power of attorney holders’ names are the same as that of the Claimant’s relative, even if the Claimant could not identify the owner of the account as his relative.

of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) reported two accounts whose owner’s, or power of attorney holder’s, names match that provided by the Claimant. Each 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 4020342

Bank 1’s records indicate that Account Owner 1 was Leopold Müller. Bank 1’s records also indicate Account Owner 1’s city and country of residence, together with the dates of opening and closing of the account at issue.

Account 5029331

Bank 2’s records indicate that Account Owner 2 was Berta Bajenski, and that the Power of Attorney Holder was L. Mueller. Bank 2’s records also indicate the Power of Attorney Holder’s full name and gender. Finally, Bank 2’s records contain the signatures of Account Owner 2 and the Power of Attorney Holder.

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

As for Account 4020342, the CRT concludes that the Claimant has not identified Account Owner 1 as his relative. Although the name of his great-uncle matches the published name of Account Owner 1, the information provided by the Claimant differs materially from the unpublished information about Account Owner 1 available in Bank 1’s records. Specifically, the Claimant stated that his great-uncle resided in Germany. In contrast, Bank 1’s records show that Account Owner 1 resided in a different country. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant’s great-uncle are the same person.

As for Account 5029331, the CRT concludes that the Claimant has not identified the Power of Attorney Holder as his relative. Although the name of his great-uncle matches the published first name initial and last 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 Bank 2’s records. Specifically, the Claimant claimed an account belonging to his great-uncle. In contrast, Bank 2’s records show that the Power of Attorney Holder was female. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant’s great-uncle are the same person. In addition, the CRT notes that the Claimant did not identify Account Owner 2 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 Account Owner 2, as his relative, the Claimant would not have been entitled to the account unless there was evidence in Bank 2's records that the Power of Attorney Holder and Account Owner 2 were related.

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.

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
19 March 2007