

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]

in re Accounts of Josef Pokorny

Claim Numbers: 215814/MC; 215210/MC

This Certified Denial is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”), (together, the “Claimants”) to the accounts of Josef Pokorny (the “Account Owner”) at the [REDACTED] (the “Bank”).

All denials are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

The March 2002 Award

On 29 March 2002, the Court approved an Award to the Claimants for one demand deposit account held by the Account Owner at the Bank (the “March 2002 Award”), and determined that the Account Owner received the proceeds of a second demand deposit account that was held at the Bank. See *In re Account of Josef Pokorny* (approved on 29 March). In the March 2002 Award, the CRT reserved decision with regard to one custody account also held by the Account Owner at the Bank. This Certified Denial addresses the custody account upon which decision was reserved in the March 2002 Award.

Information Provided by the Claimants

The Claimants submitted Claim Forms identifying the Account Owner as their grandfather, [REDACTED], and stated that their grandfather used the name Josef Pokorny as an alias for special financial transactions. According to the Claimants, [REDACTED] was born on 6 June 1876 in Susice, Czechoslovakia (now the Czech Republic), and was married to [REDACTED], née [REDACTED], on 10 June 1900 in Vienna, Austria. [REDACTED] and [REDACTED] had four children, [REDACTED], née [REDACTED] (Claimant [REDACTED 1]’s mother), [REDACTED] (Claimant [REDACTED 2]’s father), [REDACTED], née [REDACTED], and [REDACTED].

The Claimants further stated that their grandfather resided in Vienna at Meytengasse 36 and on Fichterngasse and that he was the general manager and part-owner of *Textile Werke Seiden und Schafwollwarenfabriken AG*. According to the Claimants, their grandfather had business connections throughout Europe and owned factories in various cities in the Czech Republic including Teschen, Děčín, Prague, Lomnice near Tišnov and Brno (Brünn). The Claimants explained that their grandfather, who was Jewish, was deported to Theresienstadt and later to Auschwitz, where he perished. In support of their claims, the Claimants submitted their grandfather's company guide, a settlement document that refers to the surname Pokorny, and their grandfather's *Einantwortungsurkunde* (inheritance certificate).

Claimant [REDACTED 1] and Claimant [REDACTED 2] stated that they were born on 4 April 1937 in Vienna, and 8 September 1934 in Brno, respectively.

Claimant [REDACTED 2] filed several ATAG Ernst & Young claim forms ("ATAG Forms") in 1998, asserting his entitlement to Swiss bank accounts owned by *Textilwerke Seiden und Schafwollenfabriken AG*, *Radreifen AG*, Siegfried Kubie, Hermine Kubie, Paul and Suzanne Kubie, Maurus and Franziska Banyai and Otto and Nina Kubie.¹

Information Available in the Bank's Records

The Bank's records consist of an account registry card. According to these records, the Account Owner was Josef Pokorny of Teschen, Czechoslovakia.² The records show that the Account Owner owned three accounts: two demand deposit accounts, which were closed on 28 February 1931 and 20 June 1942, and a custody account, which was closed on 12 April 1934. As noted above, the two demand deposit accounts were treated in the March 2002 Award.

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 Claimants in one proceeding.

¹ The CRT did not locate an account belonging to *Textilwerke Seiden und Schafwollenfabriken AG*, *Radreifen AG*, Siegfried Kubie, Hermine Kubie, Paul and Suzanne Kubie, Maurus and Franziska Banyai, or Otto and Nina Kubie, 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").

² The CRT notes that in 1920, Teschen was divided into a Polish section, Cieszyn, and a Czech section, Český Těšín. Poland, however, continued to claim the Czech section of the region of Teschen, and it was annexed to Poland in October 1938 after the Munich Pact. The entire region was annexed to Germany on 1 September 1939. See, e.g., <http://encyclopedia2.thefreedictionary.com/Munich+Pact> and <http://en.academic.ru/dic.nsf/enwiki/215031>.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner as their grandfather, [REDACTED] (alias Josef Pokorny). The alias, Josef Pokorny, used by their grandfather matches the published name of the Account Owner. The Claimants submitted information indicating that their grandfather had a factory in Teschen, which is consistent with the Account Owner's unpublished city of residence contained in the Bank's records. In support of their claims, the Claimants submitted documents, including settlement papers that reference [REDACTED] and the surname Pokorny, which support the assertion that their grandfather used the alias Josef Pokorny for certain financial transactions.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by Claimant [REDACTED 1]'s mother, [REDACTED], née [REDACTED], which indicates that her father, [REDACTED], was born in 1876, that he was married to [REDACTED], in Vienna, Austria, and that he resided in Czechoslovakia during the Second World War, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claim to these accounts was disconfirmed because that claimant provided a different city of residence than the city of residence of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and that he was deported to Theresienstadt and later to Auschwitz, where he perished.

As noted above, a person named [REDACTED] was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, including their grandfather's inheritance certificate, which names Claimant [REDACTED 1]'s mother as the daughter of the Account Owner, and Claimant [REDACTED 2]'s father as the son of the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

As noted above, the two demand deposit accounts were treated in the March 2002 Award.

With regard to the custody account closed on 12 April 1934, the CRT notes that the account was closed almost four years prior to the incorporation of Austria into the Reich in March 1938 (the "Anschluss") and more than four years prior to the Nazi occupation of the Czech part of Teschen on 1 September 1939, following its annexation by Poland in October 1938. Therefore, the CRT

concludes that the Account Owner had access to this account, and that he received the proceeds of this account.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimants 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 Claimants 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 Claimants 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
30 August 2010