

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Account of Erna Sak

Claim Number: 206035/JG

This Certified Denial is based upon the claim of [REDACTED] (formerly [REDACTED]) (the “Claimant”) to the unpublished account of Erna Sak (the “Account Owner”) at the London branch of the [REDACTED] (the “Bank”).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 account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his mother, Erna Saks (formerly Sak), née Wortsman, who was married to [REDACTED]. The Claimant stated that his mother, who was Jewish, was born on 26 May 1904 and resided in Vienna, Austria, where she was a student, until February 1938. The Claimant explained that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), his mother went into hiding and fled Austria in May 1938. The Claimant stated that his mother opened a bank account at the London branch of the Bank in the summer of 1938.

The Claimant explained that after fleeing Austria, his mother lived with relatives in Paris, France before settling in the United States in February 1939. The Claimant stated that his mother died on 21 August 1993 in El Paso, Texas, the United States.

In support of his claim, the Claimant submitted documents evidencing an account at the Bank, which are described in detail below.

The Claimant indicated that he was born on 14 December 1926 in Vienna. The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting his entitlement to a Swiss bank account owned by his mother Erna Sak.

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 an account belonging to Erna Sak (Saks) during their investigation of the Bank. The documents evidencing the existence of an account at the Bank were forwarded by the Claimant to the CRT.

These documents consist, first, of a letter from the Bank’s London, United Kingdom branch, dated 23 May 1938, and addressed to *Frau* (Mrs.) Erna Sak, care of *Ing.* (engineer) [REDACTED], at 14, Avenue du Parc Pards in Vanves/Seine, in which the Bank acknowledged that a Pound Sterling (“£”) account had been opened in her name, that the asset would be handled with care and attention, and that the Bank would hold all correspondence related to the account. The second document provided by the Claimant consists of a letter from the Bank, dated 19 June 1996, and addressed to the Claimant, which refers to the Claimant’s enquiries concerning an account belonging to his late mother that had been opened in 1938. In that letter, the Bank indicated that despite searching its active and dormant account records, it had been unable to locate any assets in her name.

The CRT’s Analysis

Identification of the Account Owner

As noted above, the auditors who carried out the ICEP Investigation did not report an account belonging to Erna Sak (Saks) during their investigation of the Bank. The Claimant submitted the letter from the Bank, dated 23 May 1938, which identifies his mother as the owner of an account.

The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has 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 she lived in hiding in Austria before fleeing the country after the *Anschluss* in May 1938.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was the Claimant's mother. These documents include the Bank’s letter to the Claimant of 19 June 1996, in which the Account Owner is referred to as the Claimant’s late mother. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

According to the Claimant, his mother opened the account at issue during the summer of 1938 at the London branch of the Bank, at which time his mother was outside Nazi controlled territory. The CRT notes that the Bank's letter, which confirms the existence of an account, is dated 23 May 1938 and addressed to the Claimant's mother at an address in France. Given that the Account Owner resided outside of Nazi controlled territory at the time she opened the account, and that she did not return to Nazi controlled territory, the CRT determines that the Account Owner retained dominion over her account, and concludes that the Account Owner received the proceeds of the claimed Account. The CRT notes that this conclusion is supported by the fact that the account was not reported by the auditors during the ICEP Investigation.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (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 and by the Special Masters.

Claims Resolution Tribunal
13 February 2009