

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to the Estate of Claimant [REDACTED 1]<sup>1</sup>

and Claimant [REDACTED 2]

**in re Account of Margit Schlesinger  
(Power of Attorney Holder Leo Schlesinger)<sup>2, 3</sup>**

Claim Numbers: 600009/AX; 789009/AX<sup>4, 5, 6</sup>

This Certified Denial is based upon the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) (together the “Claimants”) to the account of Leon (Leo or Leib) Schlesinger. This Denial is to the published account of Margit Schlesinger (the “Account Owner”), over which Leo Schlesinger (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (the “Bank”).<sup>7, 8</sup>

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<sup>1</sup> The CRT notes that, according to her death certificate submitted by her son, Claimant [REDACTED 2], and forwarded to the CRT by the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department, Claimant [REDACTED 1] passed away on 29 May 2004.

<sup>2</sup> In an effort to locate any and all accounts that might have belonged to the Claimants’ relative, the CRT has reviewed and analyzed all accounts whose owners’ or power of attorney holders’ names are the same as that of the Claimants’ relative, even if the Claimants could not identify the owner of the account as their relative.

<sup>3</sup> The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Margit Schlesinger is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account.

<sup>4</sup> Claimant [REDACTED 1] submitted a claim, numbered B-01921, on 9 July 1999, to the HCPO. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600009.

<sup>5</sup> Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0775-117, to the Court in the United States. Although this IQ was not a Claim Form, 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 IQ was forwarded to the CRT and has been assigned claim number 789009.

<sup>6</sup> According to Article 37 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.

<sup>7</sup> The CRT did not locate an account belonging to Leon (Leo or Leib) Schlesinger in the Account History Database prepared pursuant to the investigation carried out by ICEP, which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules.

<sup>8</sup> In her claim, Claimant [REDACTED 1] also claimed the accounts of Hersch Neuman and *L. Neuman and Sons*. In addition, Claimant [REDACTED 2] submitted a second IQ, numbered ENG-0467-141, which was also forwarded to the CRT and has been assigned claim number 781975. In this claim, Claimant [REDACTED 2] claims the account of Hersch Neuman. The CRT will treat the Claimants’ claims to these accounts in separate determinations.

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.

### **Information Provided by the Claimants**

Claimant [REDACTED 2] submitted an Initial Questionnaire with the Court in 1999, and Claimant [REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) asserting that their relative, Leon (Leo or Leib) Schlesinger, owned a Swiss bank account. Claimant [REDACTED 1] identified Leon Schlesinger as her brother, and Claimant [REDACTED 2], who is Claimant [REDACTED 1]’s son, identified Leon Schlesinger as his maternal uncle. According to the Claimants, their relative was born on 11 November 1902 in Narayov, Poland (today Narayev, the Ukraine). The Claimants indicated that their relative resided on Obere Donaustrasse in Vienna, Austria, where he owned a dry goods trading company. In addition, Claimant [REDACTED 1] indicated that her brother had one daughter, [REDACTED], who was born in 1935. According to the Claimants, their relative fled Austria in 1939, and tried to enter Switzerland, but was unsuccessful and so fled to Zagreb, Yugoslavia, where he died in 1942. Claimant [REDACTED 1] indicated that she was born on 1 October 1907 in Narayov. Claimant [REDACTED 2] indicated that he was born on 18 August 1942 in New York, New York, the United States.

In support of her claim, Claimant [REDACTED 1] submitted a copy of records filed by her brother regarding his assets in 1938. These records are further described below.

### **Information Available from the Austrian State Archives**

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Leibisch Josef Schlesinger, numbered 14869. These records indicate that Leibisch Schlesinger was born on 11 November 1902, and that he resided at Ob. Donaustrasse 79 in Vienna. These records further indicate that Leibisch Schlesinger was a businessman, and that he was married to [REDACTED], née [REDACTED]. These records make no mention of assets held in a Swiss bank account.

### **Information Available in the Bank’s Records**

The CRT notes that the Claimants submitted claims to an account belonging to their relative, Leon (Leo or Leib) Schlesinger. 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 those provided by the Claimants. 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 5024123

The Bank's records indicate that the Account Owner was Margit Schlesinger, who resided in Vienna, Austria, and that the Power of Attorney Holder was Leo Schlesinger. The Bank's records also indicate the Account Owner's street address, as well as the Power of Attorney Holder's street address, city and country of residence. Furthermore, the Bank's records indicate the Power of Attorney's professional title, the name of the Power of Attorney Holder's spouse, and the relationship between the Account Owner and the Power of Attorney Holder. 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 Claims

The CRT has determined that the claims are admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules").

### Identification of the Power of Attorney Holder

The CRT concludes that the Claimants have not identified the Power of Attorney Holder as their relative. Although the name of their relative matches the published name of the Power of Attorney Holder, the information provided by the Claimants, and the information available in the 1938 Census records filed by their relative, differs from the unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the 1938 Census records indicate that the Claimants' relative was married to [REDACTED], née [REDACTED]. In contrast, the Bank's records indicate that the Power of Attorney Holder was married to a different individual. Furthermore, the Claimants indicated that their relative was a businessman, and did not indicate that he used a professional title. Similarly, the 1938 Census records filed by the Claimants' relative do not indicate that he used a professional title. In contrast, the Bank's records show that the Power of Attorney Holder used a professional title. In addition, the CRT notes that the Claimants did not identify the Account Owner, even though she appears to be related to the Power of Attorney Holder. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimants' relative are the same person.

In addition, the CRT notes that the Claimants did not identify the Account Owner as their 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 their 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 Claimants 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 Claimants 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 Claimants should identify the Account Identification Number that 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 Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by the Claimants or upon information from other sources.

### **Certification of the Denial**

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal  
30 September 2005