

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]
also acting on behalf of [REDACTED]

in re Accounts of Nelly Schwarz¹

Claim Number: 200477/WM

This Certified Denial is based on the claim of [REDACTED], née [REDACTED], (the “Claimant”) to accounts of [REDACTED] and [REDACTED].² This Denial is to the published accounts of Nelly Schwarz (“Account Owner 1”) 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 account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form asserting that her paternal grandmother, [REDACTED], née [REDACTED], who was born on 27 May 1904 in Vienna, Austria, and was married to [REDACTED] on 21 December 1924, in Vienna, owned a Swiss bank account. The Claimant stated that her grandmother, who was Jewish, resided in Vienna. More specifically, the Claimant indicated that her grandmother resided at Auhofstrasse 40, in Vienna, until 1938; at Müllnergasse 5, in Vienna, from 1938 to 1940; and at Lerchenfelderstrasse 30, in Vienna, until 1942. The Claimant stated further that her grandmother attempted to flee Austria, but that she was unsuccessful. According to the Claimant, her grandmother was killed on 11 January 1942, in Riga. The Claimant indicated that she was born on 17 November 1963, in Oskarshamn, Sweden.

The Claimant submitted documents in support of her application, including: (1) a copy of her grandmother’s birth certificate; and (2) a copy of her grandmother’s marriage certificate, indicating that she was married in Vienna.

¹ 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”), [REDACTED] is indicated as owning nine accounts. Upon careful review, the CRT has concluded that the relevant bank records indicate that [REDACTED] owned only four accounts.

² The CRT will treat the claim to accounts of [REDACTED] in a separate determination.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to accounts belonging to her relative, [REDACTED]. 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 four accounts whose owner's name matches 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.

Accounts 1011184, 1011185, 1011186 and 1011187

The Bank's records indicate that Account Owner 1 was Nelly Schwarz, who resided in Austria. The Bank's records also indicate Account Owner 1's city of residence and title. In addition, the Bank's records indicate the name of an individual ("Account Owner 2"), who appears to have been related to Account Owner 1, and who separately owned other accounts at the Bank. Further, the Bank's records show that Account Owner 1 transferred one of her accounts to Account Owner 2. Furthermore, the Bank's records indicate Account Owner 2's marital status and cities and countries of residence. Finally, the Bank's records indicate the dates of closing of the accounts at issue.

Information Available from the Austrian State Archive

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 Nelly Schwarz and the assets of a person whose name matches the name of Account Owner 2. These records indicate Nelly Schwarz's date of birth, nationality, marital status, street address and city of residence. In addition, these records indicate that Nelly Schwarz subsequently moved to a different city and country, and specify the date on which she departed for that city. Furthermore, these records indicate the date of birth, nationality, marital status, occupation, street address and city of residence of the person whose name matches Account Owner 2's name.

The CRT notes that, according to these records, Nelly Schwarz and the person whose name matches that of Account Owner 2 have many personal details in common, and therefore the CRT determines that they are related. Moreover, the CRT notes that Nelly Schwarz's first city of residence and marital status matches Account Owner 1's city of residence and is consistent with Account Owner 1's title, and that her relative's city of residence and marital status matches Account Owner 2's first city of residence and marital status. Finally, the CRT notes that the city specified as Nelly Schwarz's second city of residence matches Account Owner 2's second city of residence as indicated in the Bank's records. Taking all of these factors into account, the CRT concludes that the Nelly Schwarz identified in the records from the Austrian State Archive was the same person as Account Owner 1, and that her relative was Account Owner 2.

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 Owners

The CRT concludes that the Claimant has not identified Account Owner 1 as her relative. Although the name of her grandmother matches the published name of Account Owner 1, the information provided by the Claimant differs from the unpublished information about Account Owner 1 available in the Bank's records and from information contained in the 1938 Census records. Specifically, the Claimant stated that her grandmother was born on 27 May 1904, and that she resided between 1938 and 1942 at three different addresses in Vienna. In contrast, the 1938 Census records show that Account Owner 1 was born on a different date and that she resided before 1942 in a different country, which was not identified by the Claimant, and to which the Claimant did not establish any connection. In addition, the CRT notes that the Claimant did not identify Account Owner 2, who appears to have been closely related to Account Owner 1. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant's grandmother are the same person.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant 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 Claimant 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 Claimant 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 Claimant should be aware that the CRT will carry out further research on her 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
21 September 2005