

# 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]  
represented by [REDACTED]<sup>1</sup>

## **in re Account of Eduard Schweinburg and Gisela Schweinburg**

Claim Number: 220696/MC<sup>2</sup>

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to accounts potentially owned by Eduard Schweinburg (“Claimed Account Owner Eduard Schweinburg”) and Gisela Schweinburg (“Claimed Account Owner Gisela Schweinburg”) (together the “Claimed Account Owners”) at an unnamed Swiss bank (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 Owners as her maternal grandparents, Eduard Schweinburg, who was born on 8 December 1860, and Gisela Schweinburg, née Pollak, who was born on 12 April 1866. The Claimant indicated that Eduard and Gisela Schweinburg’s daughter was [REDACTED], who was the Claimant’s mother.

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<sup>1</sup> In correspondence with the CRT, [REDACTED] informed the CRT that his mother, [REDACTED] (the “Claimant”), passed away in November 2006.

<sup>2</sup> In decisions dated 28 June 2006, the CRT treated the Claimant’s claims to the accounts of Arnold Löffler, Helga Helen Sorter, Margit Löffler, Werner Hausheer, and A. Bliggenstorfer. In those decisions, the CRT indicated that it did not locate any accounts belonging to those individuals in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or the “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”). The CRT notes that, with her claims, the Claimant submitted documents purportedly showing the existence of accounts held by Arnold and Margit Löffler and by Eduard and Gisela Schweinburg. This decision treats the Claimant’s claim to the purported accounts of Eduard and Gisela Schweinburg. The CRT will treat the Claimant’s claims to the accounts of Arnold and Margit Löffler in a separate decision.

The Claimant indicated that her grandparents, who were Jewish, resided in Vienna, Austria at Billrothstrasse 53 prior to the incorporation of Austria into the German Reich in March 1938 (the “Anschluss”).

The Claimant’s representative submitted documents that indicate that Eduard Schweinburg died in 1939, and that Gisela Schweinburg died in 1942; however, these records do not indicate their causes of death.

In support of the Claimant’s claim, the Claimant’s representative submitted copies of correspondence between the Claimant’s mother and the *Bethlehem Steel Corporation*, and copies of the Claimant’s grandparents’ asset registration records, which are further described below. In a letter to the CRT dated 26 December 2007, the Claimant’s representative noted that in her asset declaration, Gisela Schweinburg listed 35 shares of common stock of *U.S. Steel*, as well as other securities. The Claimant’s representative argued that the shares owned by Eduard and Gisela Schweinburg were from *U.S. Steel*, rather than *Bethlehem Steel*. He also argued that other securities identified in the asset declarations of Eduard and Gisela Schweinburg were held in a Swiss bank account, but admitted that he had not found any correspondence indicating that to be the case.

The Claimant indicated that she was born on 7 August 1918 in Vienna.<sup>3</sup> The Claimant’s son, [REDACTED], indicated to the CRT that his mother passed away in November 2006.

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

The CRT notes that the auditors who carried out the investigation of Swiss banks 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 Gisela or Eduard Schweinburg during their investigation. The documents purportedly indicating an account at a Swiss bank were forwarded to the CRT by the Claimant.

The documents submitted by the Claimant include a series of letters from the 1940s between [REDACTED] and the *Bethlehem Steel Corporation*, of New York, New York. The first letter is dated 27 January 1944 and is from Wm. J. Brown, the treasurer of *Bethlehem Steel*, to [REDACTED]. In that letter, Mr. Brown referred to a previous letter to [REDACTED] dated 3 December 1943 replying to a letter [REDACTED] had written previously. Mr. Brown stated that it had since received a letter from Mr. Aaron Sapiro of Los Angeles, dated 4 January 1944, which was accompanied by certain enclosures in support of the information contained in the letter. These earlier letters were not submitted by the Claimant. In the 27 January 1944 letter, Mr. Brown stated that the corporation’s general policy was not to furnish any information relating to the stock of the corporation to anyone other than the particular holder of record of such stock or duly qualified executor or administrator of that person’s estate. Mr. Brown stated,

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<sup>3</sup> The CRT notes that the Claimant filed four claims, each of which indicates a different date of birth: 18 August 1918 (claim 220695); 18 July 1918 (claim 220696); 8 August 1918 (claim 220697); and 7 August 1918 (claim 220698). According to the 1938 Census documents submitted by [REDACTED], she was born on 7 August 1918. The CRT cites this date as her date of birth.

however, in view of the circumstances, the corporation would make an exception to its general rule. Mr. Brown stated that *Bethlehem Steel Corporation* was organized and formerly existed under the laws of the State of New Jersey, and that the current corporation became its successor by merger effective 26 February 1936. Mr. Brown wrote that the former corporation's records did not show that Eduard Schweinburg was the holder of record of any shares of its stock at any time during the period from 1 January 1920 to 26 February 1936, and that the current corporation's records did not show that he was the holder of record of any shares of its stock at any time during the period from 26 February 1936 to the date of the letter (27 January 1944).

The second letter is dated 20 January 1947 and is from [REDACTED] to *Bethlehem Steel*. In it, [REDACTED] wrote that her late father, Eduard Schweinburg, whose last residence was Vienna, Austria, was the owner of a certain number of *Bethlehem Steel* shares, but that she did not know how many he owned, or whether they were preferred or common stock. She wrote that the shares might also have been held partly or entirely by her mother, Gisela Schweinburg. [REDACTED] wrote that the shares had been deposited with a bank in Switzerland and that after the occupation of Austria by the Germans they were transferred again to Austria. [REDACTED] wrote that her father died in Vienna in 1939 and that her mother died in 1942. She wrote that she was interested in the shares and would appreciate receiving any information about them which might help her recover the property.

On 30 January 1947, Mr. Brown responded to [REDACTED]'s letter of 20 January 1947. In it, Mr. Brown wrote that the corporation could not consistently give information regarding the holding of any shares without the written authorization of the person in whose name the shares are thought to be registered or by the executor or administrator of that person's estate. Mr. Brown therefore asked her to provide the corporation with a written request from the executor or administrator of the estates of her parents, accompanied by recently dated court certificates evidencing the respective appointments.

The next letter is dated 13 March 1947, is from [REDACTED] to *Bethlehem Steel*, and refers to a conversation her son-in-law, [REDACTED], had with representatives of *Bethlehem Steel* on 10 March 1947. [REDACTED] wrote that the corporation's representatives had mentioned in this conversation correspondence she had with it in 1944 regarding the shares that [REDACTED] claims were owned by her father, Eduard Schweinburg. She wrote that the correspondence had been misplaced, and asked the corporation's representatives to re-send it to her care of her son-in-law, [REDACTED], whom she authorized to act on this matter.

Mr. Brown of *Bethlehem Steel* responded in a letter dated 20 March 1947 and enclosed a copy of his letter dated 27 January 1944 to her. In his 20 March 1947 letter, Mr. Brown wrote that the holdings about which she inquired may have been represented by certificates issued by the Dutch Administration, which may have indicated a beneficial interest in shares of stock of *Bethlehem Steel*. He wrote: "If that is the case, you will understand that those certificates would not be within our control and any information desired as to them could be furnished only by the organization which had issued the certificates." He suggested that she write to the office of the Dutch Administration, and provided her with its address in Amsterdam. The documents submitted by the Claimant's representative do not contain any further correspondence regarding this matter.

## 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 Gisela Schweinburg, numbered 28626, and Eduard Schweinburg, numbered 27976.

The records regarding Gisela Schweinburg include her asset declaration and various correspondence. According to her asset declaration, which she signed in Vienna on 11 July 1938, Gisela Schweinburg was born on 12 April 1866, resided at Billrothstrasse 53 in Vienna, and was married to Eduard Schweinburg. In her declaration, Gisela Schweinburg listed a number of securities, including 35 shares of *U.S. Steel*, but did not indicate where these securities were held. The files also contain a form letter dated 8 August 1938 from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt.”) instructing Gisela Schweinburg to offer her foreign currency-denominated securities to the *Reichsbank* office in Vienna within the week.

According to a letter dated 3 March 1941 contained in the file, Gisela Schweinburg attempted to sell her house at Billrothstrasse 53 in Vienna to a purchaser, but the Reich finance authorities would not approve the purchase. This letter notes that Gisela Schweinburg’s husband Eduard Schweinburg had passed away. According to a form dated 21 May 1941, the Reich approved the sale by Gisela Schweinburg of the house to Eduard and Robert Puringer of Vienna, and the proceeds of the sale were placed in a blocked bank account which could only be accessed with Reich authorities’ approval. These records make no mention of assets held in a Swiss bank account.

The records regarding Eduard Schweinburg include his asset declaration, flight tax assessment forms, and various correspondence and documents, including an estimate of the value of the *Wiener Bürgertheater* (Vienna Citizens’ Theater), in which Eduard Schweinburg held an interest. According to his asset declaration, which he signed in Vienna on 11 July 1938, Eduard Schweinburg was born on 8 December 1860, was a former architect, and was married to Gisela Schweinburg, née Pollak. According to the asset declaration, Eduard Schweinburg owned real property with a total value of 101,200.00 Reichsmark (“RM”), which included his interest in the *Wiener Bürgertheater*. In his asset declaration, Eduard Schweinburg listed a number of securities, but did not indicate where these securities were held. The file also contains the same form letter as contained in the file for Gisela Schweinburg, which is dated 8 August 1938 and which instructs Eduard Schweinburg to offer his foreign currency-denominated securities to the *Reichsbank* office in Vienna within the week.

The file also includes various flight tax assessments, the latest dated 22 January 1940, which indicates that Gisela and Eduard Schweinburg were jointly assessed flight tax of RM 37,300.00 based upon their total assets in the amount of RM 169,104.00. These records make no mention of assets held in a Swiss bank account.

## The CRT's Analysis

### Basis for the Denial

While the CRT has previously awarded accounts to claimants when the ICEP Investigation failed to locate an account belonging to their relative (an account not included in the Account History Database, the Account Dossiers, and the Total Accounts Database), the evidence submitted by these claimants falls into very limited categories. Article 17 of the Rules lists certain categories of evidence that the CRT has used to justify an award when an account is not identified in the ICEP Investigation. These categories include Austrian State Archives Records and other government records, records of the New York State Holocaust Claims Processing Office, and any other historical and factual material available to the CRT. Examples of facially reliable evidence submitted by claimants include actual bank documents evidencing the existence of an account, documents submitted to an official governmental agency, and official letterhead indicating a connection to a Swiss bank.

While the CRT bears in mind the difficulties of proving a claim after the destructive events of the Second World War, it has determined in this case that the documents submitted by the Claimant's representative are insufficient to justify an award. In this case, the Claimant's representative submitted a series of letters between [REDACTED] and *Bethlehem Steel* Corporation dating from 1944 to 1947 in which [REDACTED] requested information about shares in the corporation that were potentially held by her parents. In one of her letters to the company, dated 20 January 1947, the Claimant's mother wrote that her parents' shares were deposited in a bank in Switzerland. The Claimant's representative did not submit any bank statements corroborating this statement. In its responses to [REDACTED], *Bethlehem Steel* stated that it had no record showing that her parents ever owned shares in that corporation. The CRT notes that neither Eduard nor Gisela Schweinburg reported shares of *Bethlehem Steel* in their 1938 asset declarations.

In her asset declaration, Gisela Schweinburg did list 35 shares of common stock of *U.S. Steel*. As noted above, the Claimant's representative asserts that she owned shares in this company, and not in *Bethlehem Steel*. However, as detailed above, the asset declaration does not indicate where these shares were deposited. There is no indication that these shares, or any of the other securities listed in Gisela or Eduard Schweinburg's asset declarations, were held in Swiss banks. As noted above, in his 26 December 2007 letter to the CRT, the Claimant's representative stated that he had no documentation showing that these securities were held in a Swiss bank account.

Given that the Claimant has not provided any documentary evidence demonstrating that her relatives held shares of *Bethlehem Steel* that were deposited in a Swiss bank account, or any documentary evidence that any of the securities listed in her relatives' 1938 asset declarations were deposited in a Swiss bank account, the CRT concludes that no award is appropriate in this case.

The CRT notes that, despite the absence of account records in this case, the claim was determined to contain sufficient information to warrant a Plausible Undocumented Award ("PUA"). For this PUA, the Estate of the Claimant received the amount of US \$5,000.00 on 20

June 2007 and has been informed that a second payment of US \$2,250.00 will be forthcoming, for a total payment of US \$7,250.00.

### Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant's Estate 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's Estate 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's Estate 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  
17 December 2010