

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]
represented by Dr. Marian Cech

in re Accounts of Hugo Semler, Oskar Semler and Heinz Ulrich Semler

Claim Numbers: 216008/KG; 600969/KG¹

This Certified Denial is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Hugo Semler and John Semler. This Denial is to the published and unpublished accounts of Hugo Semler (“Account Owner Hugo Semler”) and the unpublished accounts of Oskar Semler (“Account Owner Oskar Semler”) and Heinz Ulrich Semler (“Account Owner Heinz Ulrich Semler”) (together the “Account Owners”) at the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 to the Holocaust Claims Processing Office (“HCPO”) and a Claim Form to the CRT identifying Account Owner Hugo Semler as his father, Hugo Semler, Account Owner Oskar Semler as his paternal uncle, Oskar Semler, and Account Owner Heinz Ulrich Semler as his cousin, Heinz Ulrich Semler. The Claimant indicated that his father, who was born on 3 June 1881 in Pilsen, Austria-Hungary, was married to [REDACTED], née [REDACTED], on 19 August 1913 in Hodonin, Austria-Hungary. The Claimant further indicated that Oskar Semler, who was born on 15 September 1882 and who was married to [REDACTED], née [REDACTED], was his father’s brother, and that Heinz Ulrich Semler, who was born on 7 May 1921 in Pilsen, was the son of Oskar and [REDACTED] Semler. The Claimant stated that his parents, Hugo and [REDACTED] Semler, had two children: [REDACTED] (the Claimant), and [REDACTED], and that Oskar and [REDACTED] Semler had three children: Heinz Ulrich, [REDACTED], and [REDACTED].

The Claimant indicated that his father’s family, who was Jewish, resided in Pilsen, where his father’s father, [REDACTED], founded a lumber and metal manufacturing company called

¹ The Claimant submitted a claim, numbered B-00510, on 22 December 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600969.

Simon Semler, which was later passed on to his sons, Hugo and Oskar. According to the Claimant, Hugo Semler owned three additional factories in Bohemia and was a partner in another business in Ocelarna Most in Most-Čechy, Czechoslovakia. The Claimant stated that his father operated his businesses from his home office, which was located at 19 Trida Českých Legií in Pilsen. The Claimant stated that his father's brother, Oskar Semler, was a successful engineer in Pilsen.

The Claimant stated that, prior to the Second World War, a man named Alexander Brero, who was not Jewish, worked as a clerk or office manager for Simon Semler, and that, sometime in the 1930s, Alexander Brero emigrated from Czechoslovakia to Switzerland, where he owned a farm in Ipsach bei Biel, a small village near Biel, Switzerland. Moreover, the Claimant explained that he and his family had numerous connections to Switzerland prior to the Second World War, and that he had visited Switzerland on several occasions and participated in transactions at the Bank.

According to the Claimant, his brother, [REDACTED], studied in Zurich at the Polytechnic school ("*Eidgenössische Technische Hochschule*") prior to the Second World War. The Claimant explained that, after completing his studies, his brother traveled to Sweden for post-graduate work and that, by 1939, he had returned to Pilsen to work at the family business.

The Claimant stated that, when the Germans occupied Bohemia and Moravia in 1939, he and his brother, along with a close friend, fled to England via the Netherlands. According to the Claimant, in December 1939, his father left all his possessions and fled Czechoslovakia for Switzerland, with the help of Alexander Brero. The Claimant stated that, to facilitate his escape, his father granted Alexander Brero power of attorney over their Swiss bank accounts. The Claimant stated that his father arrived safely in Ipsach bei Biel, where he remained until 1940, when he moved to Geneva, Switzerland, where he resided at 39 Rue de Carouge. The Claimant indicated that, in 1941, his father left Switzerland for Havana, Cuba, where he awaited permission to emigrate to Canada. The Claimant stated that his father received permission in December 1943 and arrived in Toronto in January 1944.

The Claimant indicated that, prior to the German occupation of Bohemia and Moravia, his cousin, Heinz Ulrich Semler, was a student and resided with his parents in Pilsen. The Claimant stated that his uncle and his wife fled Czechoslovakia in 1939 or 1940 to Italy, then Switzerland, and finally emigrated to Australia, and that his cousin fled with his parents, but emigrated to the United States.

In support of his claim, the Claimant submitted numerous documents, and stated that additional documents were destroyed in a fire in 1979 that completely destroyed his home and office. The HCPO also submitted numerous documents in support of the Claimant's claim. The supporting documents include:

- Hugo Semler's and [REDACTED]'s marriage certificate, indicating their dates of birth and that they resided in Pilsen;
- Hugo Semler's death certificate, indicating that he died on 4 April 1960 and that his father was [REDACTED];

- [REDACTED]’s death certificate, indicating that he died on 10 January 2000 and that he was born in Pilsen;
- [REDACTED]’s last will and testament, dated 3 November 1965, indicating that her sons were [REDACTED] and [REDACTED] (the Claimant);
- a letter from the Fire Chief of Perth, Ontario, dated 20 November 1996, indicating that the Claimant’s house was completely destroyed by fire on 1 November 1979;
- documents from the *Statni Ustredni* archive (today the *Narodni* archive) in Prague, including the Semler family’s residence records, documents regarding securities owned by Oskar Semler, a valuation of the seized property of the firm *Simon Semler*, and a list of Hugo Semler’s assets prepared for the Czech authorities on 27 August 1939, which includes various foreign securities that were held at the *Böhmische Eskomptebank*;
- a transcript of an interview of Heinz Ulrich Semler, dated 21 February 1940, by unidentified Swiss authorities, which indicates that, as of that date, Oskar and [REDACTED] Semler were in Italy, that they were planning to emigrate to Australia, and that they had a visa to enter Australia, which was due to expire on 22 August 1940;
- a letter from Alexander Brero, dated 27 February 1940, in support of Heinz Ulrich Semler’s Swiss visa application, in which he noted that the Bank had sent a letter (not included with the documents) confirming that Heinz Ulrich Semler had a bank account with a balance of 1,135.50 Swiss Francs (“SF”);
- a letter from Alexander Brero, dated 29 February 1940, in support of Hugo and [REDACTED] Semler’s Swiss visa application, which indicates the names and dates of birth of Hugo and [REDACTED] Semler and that they, along with Hugo Semler’s brother, were co-owners of the metal factory, *Simon Semler*, in Pilsen, that their sons were in England, and that Hugo and [REDACTED] were in Italy, but were only permitted to remain there until 15 March 1940, and that they were therefore seeking permission to enter Switzerland;
- documents from the City Archive of Geneva relating to Swiss visa applications for Hugo, [REDACTED], and Heinz Ulrich Semler, including a questionnaire for immigrants, dated 8 June 1940, completed by Hugo Semler, which indicates that his wife was [REDACTED], that his sons were [REDACTED] and [REDACTED], and that his brother was Oskar Semler, and a questionnaire for immigrants, dated 25 November 1940, completed by Heinz Ulrich Semler, which indicates that his father was Oskar Semler and that his mother was [REDACTED], née [REDACTED];
- a letter, dated 16 December 1940, from a J. Scheuer to the relevant authorities in Geneva, indicating that Heinz Ulrich Semler’s parents and brother were in Melbourne, Australia; and
- documents obtained from the Bank by the Claimant and the HCPO.

The Claimant also submitted a letter which he stated was written by his father, Hugo Semler, to his sons. The letter is written in the Czech language and carries a caption at the top, in English, that reads: “Written in Czech.” It is not clear why Hugo Semler would have to identify the Czech language to his sons. The letter is dated 2 February 1941 and indicates that it was written in Geneva. According to the Claimant and the HCPO, the Claimant’s copy of the letter was destroyed in a fire that destroyed his home. The HCPO explained that, after the Claimant’s brother, [REDACTED], passed away, the Claimant obtained many of his possessions, and located a second copy of the same letter that his father had sent him.

According to this document, Hugo Semler stated that he owned a safe deposit box, numbered 251, at the Biel branch of the Bank. According to this document, this safe deposit box contained six loose clear diamonds that were purchased in Belgium, one of which weighed 4 carats, two yellow diamonds, both of which were round and weighing 2.05 carats each, 60 carats of various emeralds, approximately 100 loose rubies, and four rare 24 carat yellow gold dukats. According to the document, Hugo Semler further stated that he held two accounts at the Geneva branch of the Bank, one with a total of 20,550.00 United States Dollars (“\$”) and the other with a total of SF 300,000.00. Finally, according to the document, Hugo Semler stated that he held a safe deposit box at the Malpais branch of another Swiss bank, which contained 105,000.00 British Pounds (“£”) and US \$50,000.00. According to this document, Hugo Semler and his wife preferred to leave these assets in Switzerland, because they feared Hitler would ultimately occupy England, America, and Canada.

The Claimant stated that his father died in Toronto on 4 April 1960, that his mother died on 9 September 1971, also in Toronto, and that his brother, [REDACTED], died on 10 January 2000 in Copper Cliff, Ontario, Canada. The Claimant stated that Oskar Semler died on 5 April 1961 in Australia, that [REDACTED] died on 30 June 1992, also in Australia, and that Heinz Ulrich Semler died on 13 September 2000 in Austin, Texas, the United States. The Claimant indicated that he was born on 1 September 1917 in Pilsen.

The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999 and a HCPO Claim asserting his entitlement to a Swiss bank account owned by Hugo Semler and himself.

Information Available in the Bank’s Records

Information Obtained by the Claimant and/or HCPO

The CRT notes that, prior to filing his claims with the HCPO and the CRT, the Claimant enquired directly with the Bank as to his relatives’ accounts. Moreover, upon receipt of the Claimant’s claim, the HCPO contacted the Bank in a letter dated 7 May 1998 for information pertaining to accounts belonging to the Claimant’s relatives. On 22 May 1998, the Bank responded to the HCPO and enclosed copies of the relevant bank records. In its response, the Bank wrote that it had identified two closed accounts in the Bank’s Zurich branch that had belonged to Hugo Semler. According to the enclosed record, the first account, numbered 33’768, was opened in 1932 and closed on 19 February 1937. According to the enclosed record, the second account was a demand deposit account that was closed on 28 June 1940.

The Bank also provided records and information pertaining to accounts over which Hugo Semler held power of attorney. These include an account, the type of which was not specified, held by Heinz Ulrich Semler, which was opened in January 1940 and closed on 16 April 1940. The Bank also enclosed records for a safe deposit box, numbered 1651, at its Zurich branch that was held by Oskar Semler, over which Hugo Semler held power of attorney. According to the records, the safe deposit box rental agreement was signed on 10 August 1932 and terminated by [REDACTED], who was the holder of a proxy to the account, on 25 April 1939. The Bank also

informed the HCPO that Oskar Semler held an account, numbered 33'786, at its Zurich branch, over which Hugo Semler held power of attorney. According to the records, this account was opened in 1931 and closed on 19 February 1937.

The CRT notes that these documents were forwarded to the CRT by the HCPO, and that they correspond to documents identified during the ICEP audit and documents obtained by the CRT directly from the Bank. These documents are described in greater detail below.

Information Obtained during the Course of the ICEP Audit and through Voluntary Assistance

Account Owner Hugo Semler

The Bank's records consist of a power of attorney form and printouts from the Bank's database. According to these records, the Account Owner Hugo Semler, who resided at the Hotel Slavianska Bessedra in Sofia, Bulgaria, held one demand deposit account. The records indicate that the Power of Attorney Holders for this account were Frau Helene Lilly Semler, née Mandl, Peter Semler, and Jack Hanns Semler. The Bank's records indicate that the account was closed on 28 June 1940. The documents do not indicate the value of this account on the date of its closure.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of Power of Attorney forms, a customer card, a signed set of general terms and conditions relating to the opening of an account, statements confirming the appointment of Power of Attorney Holders and an account opening contract. These documents indicate that Account Owner Hugo Semler also held a custody account, numbered 33'768, which was opened in 1932 and closed on 19 February 1937. The amount in the account on the date of its closure is unknown.

Account Owner Oskar Semler

The Bank's records consist of a customer opening card, power of attorney forms and printouts from the Bank's database. According to these records, the Account Owner was Oskar Semler, who resided in Pilsen, and the Power of Attorney Holders were Frau Hanne Semler, Hugo Semler of Pilsen and Peter Semler of Zurich. The Bank's records indicate that Account Owner Oskar Semler held one custody account, numbered 33'786, and one demand deposit account. These records indicate that the custody account was opened in 1931 and closed on 19 February 1937 and that the demand deposit account was closed on 25 April 1939. The Bank's records do not indicate the value of the accounts on the dates of their closures.

Pursuant to the Voluntary Assistance, on 21 January 2005, the Bank provided the CRT with additional documents. These documents consist of Power of Attorney forms, a customer card, a document setting out the regular rental payments for the maintenance of a safe deposit box, a set of general terms and conditions relating to the opening of an account, together with two signed acceptance forms of these terms and conditions. According to these records, Oskar Semler also owned a safe deposit box, numbered 1651, over which Hanne Semler, Hugo Semler and Peter

Semler held power of attorney. The records indicate that the safe deposit box was opened on 10 August 1932 and closed on 25 April 1939. The note of closure is signed by Power of Attorney Holder Hanne Semler.

The records received pursuant to the Voluntary Assistance process also indicate that Account Owner Oskar Semler owned two lines of credit/debit at the Bank which were open no later than 16 January 1940, at which time a form outlining the general terms and conditions governing such credit/debit lines was signed. The general terms and conditions specify that all lines of credit/debit (“*Rechnungen*”) together for a demand deposit account. The records indicate that one of the credit/debit lines was denominated in British Pounds and that the other was denominated in United States Dollars. An additional form acknowledging receipt and acceptance of terms and conditions for a line of credit/debit denominated in British Pounds was signed by Account Owner Oskar Semler on 20 March 1940 in Genoa, Italy, and a similar form for the line of credit/debit denominated in US Dollars was signed by Account Owner Oskar Semler on 26 March 1940 in Ipsach bei Biel. Although the documents do not allow a definitive determination, the CRT considers the two lines of credit/debit to form together one demand deposit account.

Account Owner Heinz Ulrich Semler

No documents relating to Account Owner Heinz Ulrich Semler were identified during the course of the ICEP audit.

Pursuant to the Voluntary Assistance Process, on 21 January 2005, the Bank provided the CRT with an additional document. This additional document consists of a Power of Attorney form signed by Heinz Ulrich Semler, who resided in Ipsach bei Biel, on 24 January 1940, in which he granted power of attorney to Oskar Semler, Alexander Brero, Hanne Semler and Hugo Semler, all of whom resided c/o Alexander Brero in Ipsach bei Biel. According to these records, Account Owner Heinz Ulrich Semler owned a demand deposit account which was opened on 24 January 1940 and closed on 16 April 1940. This record does not indicate the value of the account on this date of its closure.

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) of 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 Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His father’s name matches the published name of Account Owner Hugo Semler and his brother’s and his mother’s names match the names of Power of Attorney Holder Helene Semler and Power of Attorney Holder Peter

Semler. His uncle's name matches the unpublished name of Account Owner Oskar Semler and his father's, brother's and aunt's names match the unpublished names of the Power of Attorney Holders. His cousin's name matches the unpublished name of Account Owner Heinz Ulrich Semler and his father's, uncle's and aunt's names, as well as the name of a family friend and former employee of the firm *Simon Semler*, match the unpublished names of the Power of Attorney Holders.

In addition, the Claimant identified his father's city of residence, which matches published information about Account Owner Hugo Semler contained in the Bank's records. The Claimant identified his uncle's city of residence, which matches unpublished information about Account Owner Oskar Semler contained in the Bank's records. The Claimant identified his cousin's city of residence, which matches unpublished information about Account Owner Heinz Ulrich Semler contained in the Bank's records. Moreover, the Claimant submitted documents he obtained from the Bank, which correspond to the documents identified by the ICEP auditors pertaining to accounts held by the Account Owner. The CRT notes that the Bank would likely not have shared this information with the Claimant if it doubted that the Claimant was related to the Account Owners.

In support of his claim, the Claimant submitted numerous documents, including Hugo and [REDACTED] Semler's marriage certificate, indicating their names, dates of birth and residency in Pilsen; Hugo Semler's death certificate, and various visa applications, completed by Hugo Semler, Oskar Semler, and Heinz Ulrich Semler, which identify the Account Owners and specify their relationship to the Claimant, providing independent verification that the persons who are claimed to Account Owner Hugo Semler and the Power of Attorney Holder, Helene Semler, had the same name and resided in the same city as the name and city of residence of Account Owner Hugo Semler and Power of Attorney Holder Helene Semler recorded in the Bank's records.

The CRT notes that the Claimant filed an IQ with the Court in 1999 as well as an HCPO claim form in 1998, asserting his entitlement to a Swiss bank account owned by Hugo Semler, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that there were no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled Czechoslovakia to avoid persecution by the Nazi regime.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by providing specific information and documents demonstrating that Account Owner Hugo Semler was his father, Account Owner Oskar Semler was his paternal uncle and Account Owner Heinz Ulrich Semler was his cousin. These documents include a questionnaire for immigrants, dated 8 June 1940, completed by Hugo Semler, which indicates that [REDACTED], who was born in 1892, was his wife, that his sons were [REDACTED] and [REDACTED] and that Oskar Semler was his brother; and a similar questionnaire, dated 25 November 1940, completed by Heinz Ulrich Semler, which indicates that his parents were Oskar and [REDACTED] Semler. There is no information to indicate that the Account Owners had other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the two custody accounts, numbered 33'768 and 33'786, held by Account Owner Hugo Semler and Account Owner Oskar Semler, respectively, the CRT notes that these accounts were closed on 19 February 1937, which is prior to the German occupation of Bohemia and Moravia, which includes Pilsen, on 15 March 1939. Therefore, the CRT determines that Account Owner Hugo Semler and Account Owner Oskar Semler were able to access these accounts, and concludes that they closed the accounts and received the proceeds themselves.

With respect to the safe deposit box, numbered 1651, held by Account Owner Oskar Semler, the CRT notes that the Bank's records indicate that the safe deposit box was closed on 25 April 1939 with the signature of Hanne Semler, who was Account Owner Oskar Semler's wife and who held power of attorney over the account. The CRT therefore concludes that Power of Attorney Holder Hanne Semler was able to access this account, and that she closed the account on behalf of Account Owner Oskar Semler and received the proceeds herself.

With respect to the demand deposit account held by Account Owner Oskar Semler, the CRT notes that the Bank's records indicate that the account was closed on 25 April 1939, which is the same day that Hanne Semler closed the safe deposit box numbered 1651. Given that Hanne Semler held power of attorney over this account as well, and given that this account was closed on the same day in which the Power of Attorney Holder was physically present at the Bank to close the safe deposit box, the CRT concludes that Account Owner Oskar Semler or Power of Attorney Holder Hanne Semler closed the account and received the proceeds him/herself.

With regard to the demand deposit account held by Account Owner Heinz Ulrich Semler, the CRT notes that the Bank records indicate that the account was opened on 24 January 1940 and that Account Owner Heinz Ulrich Semler resided in Ipsach bei Biel on this date. The records further indicate that the account was closed on 16 April 1940. The CRT notes that Account Owner Heinz Ulrich Semler opened this account after his arrival in Switzerland. Furthermore, the CRT notes that, in his letter of 27 February 1940 in support of Account Owner Heinz Ulrich Semler's visa application, Alexander Brero referred to an account held by Account Owner Heinz Ulrich Semler with a balance of SF 1,135.50. Although the records do not indicate whether the account referenced in Alexander Brero's letter is the same as that documented in the Bank's records, it is likely that the account was opened to support Account Owner Heinz Ulrich

Semler's visa application. The CRT notes that the account was closed on 16 April 1940, at which time Account Owner Heinz Ulrich Semler remained in Switzerland and had free access to his account. The CRT therefore concludes that Account Owner Heinz Ulrich Semler and the power of attorney holders to this account had free access to the account, and that Account Owner Heinz Ulrich Semler or a power of attorney holder closed the account and received the proceeds him/herself.

With regard to the demand deposit account held by Account Owner Hugo Semler, the CRT notes that the Bank's records indicate that the account was closed on 28 June 1940. The CRT notes that, in his letter of 29 February 1940 in support of Hugo and [REDACTED] Semler's visa applications, Alexander Brero noted that, as of that date, Hugo and [REDACTED] Semler were in Italy and that they were only permitted to remain in Italy until 15 March 1940. Further, the CRT notes that on 8 June 1940, Hugo Semler completed a questionnaire for immigrants in Switzerland. It is therefore clear that Account Owner Hugo Semler was in Switzerland by 8 June 1940 at the latest, and was therefore in Switzerland at the time this account was closed. The CRT notes that there is no indication that Account Owner Hugo Semler had any family members remaining in Nazi-occupied territory. The CRT further notes that this account was opened after Account Owner Hugo Semler fled Nazi-occupied territory, and appears to have been established for the purpose of fulfilling a visa requirement. The CRT therefore concludes that Account Owner Hugo Semler and the power of attorney holders to this account had free access to the account, and that Account Owner Hugo Semler or a power of attorney holder closed the account and received the proceeds him/herself.

With regard to the two lines of credit/debit owned by Account Owner Oskar Semler that the CRT considers to comprise together one demand deposit account, the Bank's records indicate that the account was opened no later than 16 January 1940, at which time a form outlining the general terms and conditions governing such credit/debit lines was signed. The Bank's records also indicate that Account Owner Oskar Semler signed additional forms on 20 March 1940 in Genoa, Italy and on 26 March 1940 in Ipsach bei Biel. The CRT notes that the Bank records do not indicate a closing date for this account. However, given that the account was likely opened after Account Owner Oskar Semler fled Pilsen, that Account Owner Oskar Semler managed his account as late as 26 March 1940, when he acknowledged receipt and accepted the terms of the account, and given that two other accounts owned by Account Owner Oskar Semler were closed properly on 25 April 1939 by Account Owner Oskar Semler or his wife, who held power of attorney over the accounts, the CRT concludes that Account Owner Oskar Semler had free access to this account, and closed it and received the proceeds himself.

With regard to the document submitted by the Claimant as a letter from his father, Hugo Semler, to the Claimant's brother, [REDACTED], in which Hugo Semler states that he held a safe deposit box, numbered 251, at the Biel branch of the Bank that contained an assortment of precious stones, two accounts at the Geneva branch of the Bank, one worth US \$20,550.00 and the other worth SF 300,000.00, and a safe deposit box at the Malpais branch of another Swiss bank, that contained £105,000.00 and US \$50,000.00, the CRT has determined that this document is insufficient to justify an award to the accounts described therein. According to Article 17 of the Rules, the CRT shall use the records and files available from the Account History Database, the Account Dossiers, and the Total Accounts Database, the information

submitted by the Claimants, and to the extent that the CRT deems relevant, other sources of information to determine whether an award is justified. 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 Archive records and other government records, records of the HCPO, and any other historical and factual material available to the CRT. Examples of facially reliable evidence submitted by Claimants include actual bank documents from the relevant period, 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 providing a claim after the destruction of the Second World War, it has determined that, in this case, the letter submitted by the Claimant is insufficient to support the existence of Holocaust-era accounts belonging to the Claimant's relative. The CRT notes that none of the accounts were identified in the extensive records pertaining to the Claimant's relatives provided by the Bank. The CRT further notes that the Claimant stated that his father sent identical letters to him and his brother, that his was destroyed in a fire, and that the letter he submitted was obtained from his late brother's personal effects. Unfortunately, the CRT is unable to verify the authenticity of the document, which, unlike other documents upon which the CRT has based awards, has remained in the custody of the Claimant or his relatives. Given these considerations, the CRT is unable to make an award to the Claimant based upon this document.

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. 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, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claims to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Denial

The CRT certifies this Denial for approval by the Court and by the Special Masters.

Claims Resolution Tribunal
21 September 2005