

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Accounts of Friedrich Stein (Power of Attorney Holder Berta Stein)¹

Claim Numbers: 210653/CH/EZ, 210652/CH/EZ ^{2, 3}

This Certified Denial is based on the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of [REDACTED] and Berta Stein. The CRT did not locate an account belonging to [REDACTED] or Berta Stein in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules. This Denial is to the published accounts of Friedrich Stein (the “Account Owner”) over which Berta Stein (“Power of Attorney Holder Berta Stein”) held power of attorney, 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 she, [REDACTED], neè [REDACTED], born on 11 August 1923 in Brod, Czechoslovakia, and married to [REDACTED] on November 18, 1950 in Czechoslovakia, owned a Swiss bank account. The Claimant indicated that she resided in Brod before the Second World War. The Claimant explained that in 1941 she went into hiding when the rest of her family, who were Jewish, were taken to a concentration camp, where they were killed. According to the Claimant, she survived several Nazi concentration camps, and she currently lives in Flushing, New York, the United States.

¹ In an effort to locate any and all accounts that might have belonged to the Claimant’s relative, the CRT has reviewed and analyzed all accounts whose power of attorney holders’ names are substantially similar to those of the Claimant’s relatives, even if the Claimant did not specifically claim that particular account and even if the Claimant could not identify the owner of the account as her relative.

² 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 Claimant in one proceeding.

³ The Claimant submitted an Initial Questionnaire with the Court in 1999 and two Claim Forms to the CRT. The CRT is treating the Initial Questionnaire and one of the two Claim Forms under the consolidated Claim Number 210652.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED], [REDACTED], and/or herself.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account held under her own name. The auditors who carried out the ICEP Investigation reported two accounts whose power of attorney holder'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 5029608 and 5024486

The Bank's records indicate that the Account Owner was Friedrich Stein, who resided in Vienna, Austria and that the Power of Attorney Holder was Berta Stein. The Bank's records also indicate the Account Owner's street address and the name of the Power of Attorney Holder's spouse. Furthermore, the Bank's records indicate the year of opening of one of the accounts at issue. Finally, the Bank's records contain the Account Owner's and the Power of Attorney Holder's signature samples.

The CRT's Analysis

Admissibility of the Claims

The CRT has determined that the claims are admissible according to Article 18 of the Rules.

Identification of the Account Owner

The CRT concludes that the Claimant has not identified herself as Power of Attorney Holder Berta Stein. Although her name matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from both the published and unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant's signature does not match that of the Power of Attorney Holder's. Moreover, the Claimant stated that she resided in Czechoslovakia before the Second World War. In contrast, the Bank's records show that the Power of Attorney Holder resided in a different country. Moreover, the Claimant stated that she married [REDACTED] in 1950, and indicated that her maiden name was [REDACTED]. In contrast, the Bank's records show that the Power of Attorney Holder was married before the Second World War, had a different spouse's name, and had a different married name. In addition, the CRT notes that the Claimant did not identify the Account Owner as her relative. Consequently, the CRT concludes that the Power of Attorney Holder and the Claimant are not the same person.

The CRT also notes 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 herself as the Power of Attorney Holder, but not the Account Owner, 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 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 the Special Master, c/o Claims Resolution Tribunal, P.O. Box 9564, 8036 Zurich, Switzerland.

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
18 August 2004