

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Karoly Szemere and Gisella Szemere

Claim Numbers: 211808/MW; 212859/MW; 212326/MW

This Certified Denial is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Karoly Szemere (“Account Owner K. Szemere”) and Gisella Szemere (“Account Owner G. Szemere”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).¹

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 Claimants

The Claimants each submitted a Claim Form identifying Account Owner K. Szemere as their father, Karoly Szemere, who was born on 15 September 1898 in Cinkota, Hungary, and Account Owner G. Szemere, as Claimant [REDACTED 1]’s mother, Gizella Szemere, née Magyar, who was born on 11 December 1904. The Claimants indicated that their father was married to [REDACTED] (Claimant [REDACTED 2]’s mother) on 16 September 1923 in Budapest, and was divorced on 16 November 1932 in the same city. The Claimants further indicated that their father was re-married on 25 March 1936 in Budapest to Gizella Magyar (Claimant [REDACTED 1]’s mother). The Claimants explained that their father, who was Jewish, had an honorary doctorate, and owned his own business, *Szemere Gaspar*, which manufactured clothing. The Claimants further explained that from 1923 to 1949, their father and his family lived in Budapest, and that in 1949 they moved to Santiago, Chile. Claimant [REDACTED 1] indicated that her father’s business was expropriated during the Second World War, and that he was forced to perform slave labor. In a telephone conversation with the CRT on 10 August 2004, Claimant

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”), Karoly Szemere and *Frau* Karoly Szemere are each indicated as owning an account. Upon careful review, the CRT has concluded that the Bank’s records indicate that Karoly Szemere and Gisella Szemere, who was also referred to as *Frau* Karoly Szemere, jointly owned one account.

[REDACTED 1] indicated that in 1949 the family travelled from Budapest to Vienna, Austria, that her father acquired a visa which allowed the family to travel from Switzerland to Chile, that at some point after the family left Vienna they were in Switzerland to obtain the travel visas for their voyage to Chile, and that the family went to an Italian refugee camp in 1949, from where they departed to Chile. The Claimants stated that their father died on 25 October 1950 in Santiago. Claimant [REDACTED 1] further stated that her mother died on 28 June 1995 in London, the United Kingdom.

The Claimants submitted Claimant [REDACTED 1]'s birth certificate, which indicates that she was born in Budapest, and that her parents were Dr. Vilmos Karoly Szemere and Gizella Magyar; Claimant [REDACTED 1]'s marriage certificate, which indicates her parents' names, and that they were married on 25 May 1936 in Budapest; the death certificate of the Claimants' father, which indicates that [REDACTED] died on 25 October 1950, and was born in Hungary; the death certificate of Claimant [REDACTED 1]'s mother, which indicates that Gizele Szemere, who was born in Hungary, died on 28 June 1995; an official document indicating that a court in Budapest granted Dr. Vilmos Karoly Szemere and [REDACTED], who both resided in Budapest, a divorce in 1932, and that their daughter, [REDACTED], would be the responsibility of Dr. Vilmos Karoly Szemere; and an attestation issued by the Chilean Consulate in Switzerland, dated 23 March 1949, which indicates that the Consulate had authority to issue visas to the Claimant's parents and Claimant [REDACTED 1] for the purpose of emigrating to Chile. Claimant [REDACTED 1] indicated that she was born on 22 July 1938 in Budapest, Hungary. Claimant [REDACTED 2] indicated that she was born on 10 November 1928 in Budapest.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Karoly and Gizella Szemere.

Information Available in the Bank's Records

The Bank's records consist of the Bank's vault deposit and withdrawal registry, a customer card, an internal memorandum, and a printout from the Bank's database. According to these records, the Account Owners were Dr. Karoly Szemere and Giselle Szemere, his wife, both of whom resided in Budapest, Hungary.

The Bank's records indicate that the Account Owners owned a numbered account, under the number 38722. The Bank's records further indicate that the Account Owners deposited a package worth 5,000.00 Swiss Francs ("SF") in the Bank's vault on 23 May 1939, and then withdrew it on 30 May 1939. Further, the Bank's records indicate that the Account Owners opened a custody account on 3 June 1939. The Bank's records contain a handwritten statement, "*Liq. 4 August 1949, Transf. [REDACTED], avec ordre à cette succursale de tenir les valeurs à la disposition de M. Szemere,*" which indicates that the account was transferred to the Bank's Bern branch on 4 August 1949 to facilitate M. (Mr.) Szemere's access to the account, and then closed. The Bank's records do not indicate the value of this account.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) 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 three claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The name of the Claimants' father, city and country of residence match the published name, city, and country of residence of Account Owner K. Szemere. The Claimants identified their father's title, which matches unpublished information about Account Owner K. Szemere contained in the Bank's records. Claimant [REDACTED 1] also identified her mother's name, which matches unpublished information about Account Owner G. Szemere contained in the Bank's records. In support of their claims, the Claimants submitted documents, including an official document indicating that a court in Budapest granted Dr. Vilmos Karoly Szemere and [REDACTED], who both resided in Budapest, a divorce in 1932; and Claimant [REDACTED 1]'s marriage certificate, which indicates her parents' names, and that they were married on 25 May 1936 in Budapest. These documents provide independent verification that the persons who are claimed to be the Account Owners have the same names and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owners.

The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Karoly and Gizella Szemere, 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 Claimant [REDACTED 1] has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

The CRT notes that there are no other claims to this account.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. Claimant [REDACTED 1] indicated that her father was Jewish, that her father's business was expropriated during the Second World War, and that he was forced to perform slave labor.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner K. Szemere was the Claimants' father, and that Account Owner G. Szemere was Claimant [REDACTED 1]'s mother. These documents include Claimant [REDACTED 1]'s birth certificate, which indicates that she was born in Budapest to Dr. Vilmos Karoly Szemere and Gizella Magyar; Claimant [REDACTED 1]'s marriage certificate, which indicates her parents' names, and that they were married on 25 May 1936 in Budapest; and an official document indicating that a court in Budapest granted Dr. Vilmos Karoly Szemere and [REDACTED], who both resided in Budapest, a divorce in 1932, and that their daughter, [REDACTED], would be the responsibility of Dr. Vilmos Karoly Szemere. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Bank's records indicate that the Account Owners' account was transferred to the Bank's Bern branch to facilitate Account Owner K. Szemere's access to the account's contents, and the account was subsequently closed on 4 August 1949; that according to Claimant [REDACTED 1]'s telephone conversation with the CRT on 10 August 2004, the family was in Bern, Switzerland to obtain their visas for their emigration to Chile, which is further evidenced by the attestation from the Chilean Consulate in Switzerland dated 25 March 1949, the CRT determines that the Account Owners had access to this account after 1945, and concludes that the Account Owners closed the account and received the proceeds.

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 the Special Master, c/o Claims Resolution Tribunal, P.O. Box 9564, 8036 Zurich, Switzerland.

The Claimants 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 Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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.

Claims Resolution Tribunal
18 November 2004