

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimants [REDACTED 1]

and [REDACTED 2]¹

in re Account of Rosa Tillinger

Claim Number: 601166/SB/EZ

This Certified Denial is based on the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED 2], (“Claimant [REDACTED 2]”) (together the “Claimants”) to an account of Rosa Tillinger, née Garfunkel, [REDACTED] (also spelled [REDACTED]) and [REDACTED]. The CRT did not locate an account belonging to [REDACTED], Rosa Garfunkel or [REDACTED] 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 Governing the Claims Resolution Process, as amended (the “Rules”). This Denial is to the published account of Rosa Tillinger (the “Account Owner”) 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 Claimants

Claimant [REDACTED 1] submitted a claim form to the Holocaust Claims Processing Office (“HCPO”) in 1997, asserting that her mother, Rosa Tillinger, née Garfunkel, who was born on 16 January 1909, and was married to [REDACTED], owned a Swiss bank account. The Claimants, who are sisters, jointly submitted an Initial Questionnaire with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Rosa Tillinger.

¹ Claimant [REDACTED 1] submitted a claim, numbered B-00077, on 23 September 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 601166. Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted a joint Initial Questionnaire to the Court in the United States in 1999. The CRT is treating the Initial Questionnaire and the HCPO claim under the consolidated Claim Number 601166.

Claimant [REDACTED 1] stated that she lived with her parents, who were Jewish, in Vienna, Austria, until August 1939 when they fled Austria for the United States. The Claimants also stated that Rosa Tillinger's brother, [REDACTED], traveled from Vienna to Switzerland sometime before October 1939 and opened a bank account for Rosa Tillinger, and possibly for [REDACTED], using either Rosa Tillinger's married or maiden name. The Claimants stated that Rosa Tillinger died on 5 July 1986 in San Francisco, California, the United States. Claimant [REDACTED 1] indicated that she was born on 29 November 1937. Claimant [REDACTED 2] indicated that she was born on 8 June 1946.

The Claimants submitted documents in support of their applications, including: (1) their mother's death certificate; (2) her last will, dated 28 January 1977; (3) a copy of [REDACTED]'s letter to the Tillinger family, dated 2 October 1939, in which he states that he has sent the sum of 50 English Pounds to Switzerland. This letter makes no reference to a specific bank account or a specific bank in Switzerland; (4) photocopies of bank records indicating an account owned by a person named Rosa Garfunkel.²

Information Available in the Bank's Records

The CRT notes that the Claimants submitted a claim to an account belonging to their relative, Rosa Tillinger. The auditors who carried out the ICEP Investigation reported one account whose owner's name matches that provided by the Claimants. The account is identified below by its Account Identification Number, which is a number assigned to the account by the ICEP auditors for tracking purposes.

Account 5029496

The Bank's record indicates that the Account Owner was Rosa Tillinger, who resided in Milan, Italy, and that the Power of Attorney Holder was Oswald Tillinger, who appears to be related to the Account Owner. The Bank's record also indicates the names of two other persons associated with the account at issue. Finally, the Bank's records indicate the year that the account was closed.

The CRT's Analysis

Admissibility of the Claim

² The CRT notes that the auditors who carried out the ICEP Investigation did not report this account. However, pursuant to an earlier inquiry made by the HCPO on Claimant [REDACTED 1]'s behalf, the Bank provided documents to the HCPO regarding an account owned by a person named Rosa Garfunkel. The HCPO shared these documents with Claimant [REDACTED 1], who confirmed that the person identified as the account owner in the documents was not her mother. These documents were forwarded to the CRT by the HCPO. The CRT notes that the person identified in the Bank's records lived in another state and had a different married name than the Claimants' mother. The CRT has therefore concluded that the account owner identified in these records and the Claimants' mother are not the same person. Because the Claimant has previously acknowledge that the person identified in these bank records was not her mother, the CRT will not address these accounts in a subsequent decision.

The CRT has determined that the claim is admissible according to Article 18 of the Rules.

Identification of the Account Owner

The CRT concludes that the Claimants have not identified the Account Owner as their relative. Although the name of their mother matches the name of the Account Owner, the information provided by the Claimants differs materially from the published and unpublished information about the Account Owner available in the Bank's record. Specifically, the Claimants stated that their mother lived in Vienna, Austria, and left for the United States in 1939. In contrast, the Bank's record shows that the Account Owner lived in Milan, Italy. Moreover, the Claimants did not identify the Power of Attorney Holder to the account, although he appears to be related to the Account Owner, nor did the Claimants identify the other two persons associated with the account at issue. Consequently, the CRT is unable to conclude that the Account Owner and the Claimants' mother are the same person.

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. If more than one account has been denied in this Certified Denial, the Claimants 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 Claimants 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 Claimants 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