

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2], [REDACTED 3],
[REDACTED 4] and [REDACTED 5]
represented by Helmut Reif

in re Accounts of Marie Ullmann

Claim Number: 206531/BW

This Certified Denial is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Marie Ullmann (the “Account Owner”) at the [REDACTED] (the “Bank”).^{1,2}

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 Owner as Marie (Maria) Evelyne Ullmann, née Pellar (Belar). The Claimant stated that he is not related to Marie Ullmann, but is a testamentary heir of Marie Ullmann’s niece, [REDACTED], née [REDACTED].

According to the Claimant, Marie Ullmann was born on 4 April 1881 in Vienna, Austria, and was married to [REDACTED]. The Claimant stated that Marie Ullmann and [REDACTED] resided at Wallnerstrasse 3 in Vienna, and that they did not have any children. The Claimant stated that Marie Ullmann resided in Zurich, Switzerland, from 1939 until 1958, and that she then resided in Kaumberg, Austria, until her death on 31 January 1961. In his claim form, the Claimant indicated that Marie Ullmann did not belong to any of the five groups of persons

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Marie Ullmann is listed twice as an account owner. Upon careful review, the CRT has concluded that the Bank’s records evidence that these two account owners were the same individual and that Marie Ullmann actually held three accounts.

² The Claimant requested that the CRT also search for any accounts belonging to Hertha Hine, Hanns (Hans) Pellar, Hans (Hansi, Hanns) Marcelle Pellar, or Stefanie Jakobovitsch. The CRT did not locate accounts belonging to any of these individuals in the Account History Database prepared pursuant to the investigation of ICEP, 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”).

identified as Victims or Targets of Nazi persecution under the Rules Governing the Claims Resolution Process, as amended, the (“Rules”), which derive from the Settlement Agreement. Instead, the Claimant indicated that Marie Ullmann was persecuted by the Nazis for “political grounds?” or because she was “protecting Jewish relatives?” (In German, the Claimant wrote: “*politische Gründe? Schutz der Jüdischen Verwandtschaft?*”)

The Claimant explained that Marie Ullmann’s brother was [REDACTED], an art professor, who was married to [REDACTED], née [REDACTED], and that together they had two children, [REDACTED], and [REDACTED], née [REDACTED]. The Claimant also stated that Marie Ullmann’s sister was [REDACTED], née [REDACTED]. The Claimant explained that [REDACTED] was married to [REDACTED], and that together they had one daughter, [REDACTED].

In support of his claim, the Claimant submitted documents, including the following:

- (1) Marie Ullmann’s marriage certificate, which shows that Maria Evelyne Ullmann, née Pellar, was Catholic, was born in Vienna, and was married on 26 December 1921 to [REDACTED], who was Catholic, and who resided at Wallnerstrasse 3 in Vienna.
- (2) Marie Evelyne Ullmann-Pellar’s will, dated 11 June 1958 in Switzerland, and a codicil, dated 4 July 1958, which indicates that her estate was to be divided equally between her sister, [REDACTED], and her brother, Professor [REDACTED]. According to the will, upon the death of [REDACTED], any assets remaining from her share were to be granted to [REDACTED]’s daughter, [REDACTED]; and upon the death of [REDACTED], any assets remaining from his share were to be granted to his children, [REDACTED], née [REDACTED], and [REDACTED];
- (3) [REDACTED]’s will, dated 2 October 1970, which indicates that he was born on 17 March 1886, that his universal heir was his daughter [REDACTED], and that his son [REDACTED] was only entitled to the minimum portion obliged by law, because he had supported him his entire life in his studies and during his illness, and that he therefore enjoyed advantages over his sister (“*Mein Sohn Herr [REDACTED] (geb. 18.11.1911 in Wien) Pensionist, der bei mir wohnt, soll den ihm gebührenden Pflichtteil bekommen u. zw. deshalb, weil ich ihn wegen seines Studiums und seiner Krankheit zeitlebens unterstütz habe und er durch diese Zuwendungen seiner Schwester gegenüber im Vorteil war.*”)
- (4) a letter dated 15 March 2000 from the Federal Association of Jewish Cultural Communities in Austria, stating that, according to the archive of the city and county of Vienna, Marie Ullmann, née Pellar, was born on 4 April 1881 in Vienna, was Roman Catholic, and was registered as living at Wallnerstrasse 3 in Vienna from 1922 through 15 July 1939, after which time she deregistered, listing her next place of residence as Zurich;
- (5) [REDACTED]’s death certificate, indicating that [REDACTED] was born on 1 January 1864; was a Roman Catholic; was married to Maria Ullmann, née Belar (Pellar); resided at Wallnerstrasse 3 in Vienna; that he had been a ‘Director’; that he died on 29 June 1936 in Vienna at the age of 72; and that he had an existing will from the 10 July 1926, registered under number 165/35;

- (6) an inheritance certificate, stating that [REDACTED] died on 26 September 1995, and that her heirs were [REDACTED 3], who was entitled to one-half of her estate; [REDACTED 1], who was entitled to one-quarter of her estate; and [REDACTED 2], who was entitled to one-quarter of her estate; and

In a telephone conversation with the CRT, the Claimant stated that Marie Ullmann was not Jewish, but that [REDACTED], her husband, was Jewish. The Claimant also stated that the court proceedings by which [REDACTED]'s wife and heir would have become his legal successor were delayed, first by the Austrian and then the Nazi authorities, until about 1942, when the Nazis declared the entire procedure void and confiscated the heritage. The Claimant also stated that Marie Ullmann moved from Austria to Switzerland in 1939, possibly to protect a mentally handicapped nephew, [REDACTED], who was the son of her brother, Professor [REDACTED], who, according to the Claimant, otherwise would have been deported to a concentration camp.

In a subsequent telephone conversation with the CRT, represented party [REDACTED 4] stated that Marie Ullmann was the sister of his maternal grandmother [REDACTED], née [REDACTED]. According to [REDACTED 4], a family photo album contains a picture of the wedding of [REDACTED] and Marie Ullmann, along with the date 1922. [REDACTED 4] stated that he knew that [REDACTED] and Marie Ullmann were married in a Roman Catholic Church, because he remembered his mother telling him that [REDACTED] needed a certificate of confession (*Beichtzettel*) before he could get married.

The Claimant previously submitted an Initial Questionnaire ("IQ") to the Court in 1999, as well as ATAG Ernst & Young claim forms ("ATAG Forms") in 1998, asserting his entitlement to a Swiss bank account owned by Marie Ullmann. In his IQ, the Claimant did not indicate if Marie Ullmann belonged to any of the five Victim or Target groups. With his ATAG Forms, the Claimant included a copy of a certificate of descent (*Kleiner Abstammungsnachweis*) issued on 20 February 1943 by the Vienna administrative region of the Nazi Party (*NSDAP-Gau Wien*) to [REDACTED]. This document indicates that [REDACTED], who was the wife of Marie Ullmann's brother Professor [REDACTED], was considered to be a Jew of mixed ancestry of the first degree (*Mischling I. Grades*). According to correspondence contained with the IQ and ATAG Forms, the Claimant indicated that Marie Ullmann travelled to Switzerland to protect her family from persecution, and had to buy her way into Switzerland ("*sie hat sich einkaufen müssen*").

The Claimant indicated that he was born on 15 May 1956 in Vienna. The Claimant is representing [REDACTED]'s two other heirs, [REDACTED 2], who was born on 5 June 1942 in Vienna, and [REDACTED 3] (who is [REDACTED]'s step-daughter), who was born on 3 December 1927. The Claimant is also representing the grandson of Marie Ullmann's sister [REDACTED], [REDACTED 4], who was born in Vienna on 8 March 1942; and the widow of [REDACTED]'s second grandson ([REDACTED 4]'s late brother), [REDACTED 5], who was born in Vienna on 27 February 1934.

Information Available in the Bank's Records

The Bank's records consist of four account cards. According to these records, the Account Owner was *Frau* (Mrs.) Marie Ullmann, who resided at Wallnerstrasse 3 in Vienna I, Austria. The Bank's records indicate that the Account Owner held one custody account, numbered 4417, and a custody account and demand deposit account, both held under the number 45985.

The first account card refers to custody account numbered 4417. According to this account card, the account was originally held by *Frau* (Mrs.) Marie Ullmann. The card contains a notation that absolutely nothing is to be sent to the Account Owner, and that no information is to be provided about the account, except to the Account Owner herself. The card also notes that no correspondence is to be sent regarding the Account Owner's account numbered 45985. This card shows that the custody account numbered 4417 was closed in July 1939.

The second account card refers to the custody account and demand deposit account numbered 45985. According to this account card, these accounts were originally held by *Dir.* (Director) [REDACTED]. According to an undated handwritten note on this card, the Bank was informed that [REDACTED] had died on 29 June 1936. A further notation on the account card indicates that Marie Ullmann, who previously only held power of attorney over the account, was now the account owner (*Inhaberin*). Further notations on this card indicate that the Bank was informed by letter of 9 May 1938 that all correspondence should be sent to *Frau* Marie Ullmann at Wallenstr. 3 in Vienna, and that a new account card was created for this account.

The third account card also refers to the custody account and demand deposit account numbered 45985. According to this account card, the owner of these accounts was *Frau* Marie Ullmann. A handwritten notation on this card states that the Bank was informed by a letter dated 9 May 1938 that correspondence on a case by case basis ("*von Fall zu Fall*") was to be sent to *Frau* Marie Ullmann at Wallenstr. 3 in Vienna.

The fourth account card also refers to the custody account and demand deposit account numbered 45985. According to this account card, the owner of these accounts was *Frau* Marie Ullmann. A handwritten notation on this card states that according to instructions received from the Account Owner during a personal appearance at the Bank on 6 October 1938, correspondence should continue to be sent to her Vienna address. Another handwritten notation on the back of this card states that, pursuant to a letter from the Account Owner dated 5 October 1938, the balance of the account was always to remain between 3,000.00 Swiss Francs ("*SF*") and SF 4,000.00 ("*Es soll auf dem Konto immer ein Guthaben v/ Fr. 3 / 4,000.-- stehen*"). A further handwritten notation on the back of the card states that as of 18 June 1939, Marie Ullmann resided at *Hotel Bellerive au Lac* at Utoquai 47 in Zurich, Switzerland.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended, the ("*Rules*"), the CRT requested the voluntary assistance of the Bank to obtain additional information about the Account Owner's accounts ("*Voluntary Assistance*"), including detailed documentation on the portfolios held in the accounts. These documents consist of a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within the custody account numbered 45985.

These documents indicate that the account held a number of securities at the time of the death of the Account Owner's husband in 1936. The name of the account owner on the portfolio cards for those securities that had already matured before 1936 is listed as "No. 45985" and the last portfolio card with this indication was a security that was sold on 24 June 1936. A number of securities that were held in the account in 1936, but that had not yet matured, are listed initially on the portfolio holding cards under "No. 45985" as the name of the depositor/account owner. However, this number was subsequently crossed out and "*Frau Marie Ullmann*" added to the portfolio holding card as the name of the depositor/account owner. These records also show that Marie Ullmann purchased a number of new securities after she became the owner of the account, and the name of the account owner for these securities is listed on the portfolio holding cards as "*Frau Marie Ullmann.*" According to these records, Marie Ullmann made additional purchases of securities for her account on 13 and 14 October 1938, 31 August 1939 and 6 September 1939. According to these records, Marie Ullmann transferred some of the securities to a bank in Budapest on 17 April 1939. The documents show that all the securities in the custody account were sold by December 1939.

The Bank's records do not show when the custody account and demand deposit account numbered 45985 were closed. The auditors who carried out the investigation of this bank 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 find these accounts in the Bank's system of open accounts and therefore they presumed that the accounts was closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

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 [REDACTED], numbered 31023. These records consist of [REDACTED]'s asset declaration, signed by him in Vienna on 30 June 1938. According to these records, Professor [REDACTED] was born on 17 March 1886 in Vienna, was "Aryan," and was married to [REDACTED], née [REDACTED], who is indicated as Jewish. In his asset declaration, [REDACTED] noted that his sister, Marie Ullmann, who was a "full-Aryan" (*Vollarierin*), supported him and his wife with a monthly sum of 333.00 Reichsmark ("RM"). He noted that this payment was not the result of any legal obligation, but merely a freely given amount, that could be stopped at any time. He noted that he could not capitalize this amount (as provided in the declaration), because he did not know how long he would receive such payments and whether he would receive any additional payments in the near future.³ These records make no mention of assets held in a Swiss bank account.

³ The German original reads: "*Meine Schwester Frau Generaldirektor Marie Ullmann – Vollarierin – unterstütz mich und meine Frau durch eine monatliche Zuwendung von RM 333.— die weder auf einen Rechtstitel noch sonst auf ein Weiterbezugsrecht beruht, lediglich eine aus freinen [sic] Stücken gegebene Zuwendung, die jederzeit eingestellt werden kann. Eine Kapitalisierung dieser freiwilligen Zuwendung kann ich nicht vornehmen, weil ich nicht weiss wie lange diese noch währen wird und ob ich diese in der nächsten Zeit noch weiter bekommen werde.*"

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The name and country of residence of the individual claimed to be the Account Owner match the published name and country of residence of the Account Owner. The Claimant also identified the unpublished city of residence and street address of the Account Owner, and the unpublished date of the Account Owner's spouse's death. Additionally, the Claimant stated that Marie Ullmann resided in Zurich in 1939, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including Marie Ullmann's marriage certificate, [REDACTED]'s death certificate, Marie Ullmann-Pellar's will, and a letter from the Federal Association of Jewish Cultural Communities in Austria, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence or married name than the country of residence or married name of the Account Owner.

Basis for the Denial

The CRT notes that, in his IQ and his Claim Form, the Claimant indicated that Marie Ullmann did not belong to any of the five groups identified by the Settlement Agreement as Victims or Targets of Nazi Persecution. The CRT also notes that the 1938 Census declaration of [REDACTED] indicates that Marie Ullmann was a full Aryan (*Vollarierin*). In correspondence with the CRT, the Claimant has asserted several reasons why Marie Ullmann was a Victim or Target as defined by the Settlement Agreement. He has stated that she was persecuted by the Nazis for "political grounds," that she was "protecting Jewish relatives," that she had a mentally handicapped nephew, that her husband was formerly Jewish, that her husband's estate was confiscated by the Nazis, and that she had a sister-in law who was half-Jewish.

In this case, the CRT concludes that the Claimant has not plausibly established that the Account Owner was a Victim or Target of Nazi Persecution, as defined by the Settlement Agreement. With regard to the Claimant's claim that Marie Ullmann's husband was Jewish, thereby making her a Victim or Target, the CRT notes that Marie Ullmann's wedding certificate and the death certificate of her husband, [REDACTED], both show that he was Roman Catholic. The Claimant has no documentation to show that [REDACTED] converted to Catholicism from Judaism. The CRT also notes that [REDACTED]'s death certificate shows that he died in 1936, which was two years before the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). There is no indication that Marie Ullmann was victimized or targeted by the Nazi Regime because of her late husband's purported Jewish origins.

The Claimant has also argued that [REDACTED]'s estate was confiscated by the Nazis, and that Marie Ullmann, as his direct heir, was thus a Victim of Nazi persecution. However, there is no evidence that the estate, including the claimed Swiss bank accounts, were confiscated. In this regard, the CRT notes that there is no record of Marie Ullmann having filed a 1938 asset declaration to declare the assets she inherited from her husband, or any other evidence showing that her husband's estate was confiscated on the basis of his purported Jewish origins. In fact, as detailed above, the Bank's records show that after her husband's death, Marie Ullmann actively managed two accounts that were originally held in his name.

The Claimant has also argued that Marie Ullmann was a Victim persecution because her brother's son, [REDACTED], was mentally handicapped, and would have been subjected to deportation. However, if [REDACTED] was mentally handicapped, that fact would make him a Victim, but would not make Marie Ullmann a Victim of Nazi persecution. The CRT also notes that, according to the Claimant, Marie Ullmann took her nephew to Zurich with her in order to prevent him from being deported to a concentration camp. As detailed below, the Bank records show that all the accounts at issue were closed after Marie Ullmann arrived in Zurich with her nephew. Thus, it is clear that Marie Ullmann did not pay the accounts to the Nazis in order to have him released, as he was already with her in Switzerland.

The Claimant also stated that Marie Ullmann's brother [REDACTED] was married to a woman of Jewish descent, and that in his 1938 Census declaration, [REDACTED] stated that his wife was Jewish. However, this did not make Marie Ullmann a Victim or Target of Nazi persecution, as defined by the Settlement Agreement. Furthermore, as detailed below, the Bank's records show that the Account Owner managed her accounts and closed them by 1939. There is no indication in the Bank's records that Marie Ullmann transferred funds from her account to benefit her sister-in-law. The CRT notes that on 20 February 1943 [REDACTED] was declared a Jew of mixed ancestry of the first degree (*Mischling 1. Grades*) by the Vienna administrative region of the Nazi Party (*NSDAP-Gau Wien*). However, there is no indication that Marie Ullmann, who herself was a full Aryan, used any of her own funds to secure this certificate on behalf of her sister-in-law. The CRT notes that the assets in Marie Ullmann's accounts were disposed of by December 1939, a full three years before the official designation of her sister-in-law as a mixed-ancestry Jew, demonstrating that the disposition of the assets was in no way connected to determination regarding [REDACTED].

The CRT therefore concludes that the Claimant has not made a plausible showing that the Account Owner was a Victim or Target of Nazi Persecution, as defined by the Settlement Agreement.

The CRT has determined this claim to be inadmissible. However, even if the claim were admissible, the Bank's records show that the Account Owner resided in Switzerland as of June 1939, that she actively managed her accounts until their closure, and that she received the proceeds herself. Thus, in this case, the Account Owner held one custody account numbered 4417 which was closed in July 1939, and one demand deposit account and one custody account numbered 45985 which were closed sometime after December 1939, which is the date when the last of the securities it contained were disposed. The Bank's records show that the demand deposit account and custody account numbered 45985 originally belonged to Marie Ullmann's

husband, and that she took over ownership of these accounts after his death in 1936. The Bank's records for these accounts also show that Marie Ullmann purchased additional securities for custody account numbered 45985 on 13 and 14 October 1938, 31 August 1939 and 6 September 1939. Given that the Account Owner resided in Switzerland when her custody account numbered 4417 was closed in July 1939, that she purchased additional securities for her custody account numbered 45985 as late as September 1939, and that she then disposed of all of the securities held in custody account 45985 by December 1939, and that the custody and demand deposit account numbered 45985 were subsequently closed, all at a time when the Account Owner resided in Switzerland, where she continued to reside until the 1950s, the CRT concludes that the Account Owner closed the accounts herself, and received the proceeds of the accounts.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant 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 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 should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

In the absence of a timely appeal of this decision, the CRT will forward a copy of this Claim Form to the Contact Office of the Swiss Bankers Association, which has a separate program for considering claims made to accounts of persons who were not Victims or Targets of Nazi Persecution as defined in the Settlement Agreement, in order for that office to consider the claim to the account belonging to the Claimed Account Owner. If the Claimant does not wish to have the Claim Form so forwarded, he may request in writing, within thirty (30) days of the date of this decision, that the CRT not do so. Such requests should be sent to the CRT at the following address:

**Claims Resolution Tribunal
Attention: Oren Wiener
P.O. Box 9564
8036 Zurich
Switzerland**

The Claimant can also obtain additional information about the Swiss banks' claims program by contacting the Swiss banks' Contact Office at the following address:

Contact Office of Swiss Bank Accounts Dormant Since World War II
P.O. Box 2761
4002 Basel
Switzerland

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
17 December 2010