

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Account of Hans Wagner
and
Accounts of Carl Gustav Wagner
(Power of Attorney Holder Hans Wagner)¹**

Claim Number: 220245/SB

This Certified Denial is based on the claim of [REDACTED], née [REDACTED], (the Claimant) to the account of Hans Wagner. This Denial is to the published account of Hans Wagner (“Account Owner 1”) at the [REDACTED] (“Bank 1”), and to the published account of Carl Gustav Wagner (“Account Owner 2”), over which Hans Wagner (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (“Bank 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 asserting that her great-uncle, Hans Wagner, owned a Swiss bank account. The Claimant stated that her great-uncle, who was Jewish, was a businessman who resided in Hamburg and Berlin, Germany. The Claimant did not indicate her great-uncle’s fate. The Claimant indicated that she was born on 24 December 1927 in Argentina.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998 asserting her entitlement to a Swiss bank account owned by Hans Wagner.

Information Available in the Bank’s Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, Hans Wagner. The auditors who carried out the investigation to identify accounts of Victims of Nazi

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 owners’ or power of attorney holders’ names are the same as that of the Claimant’s relative, even if the Claimant could not identify the owner of the account as her relative.

Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) reported four accounts whose owner’s, or power of attorney holder’s names match 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.

Account 1014461

Bank 1’s records indicate that Account Owner 1 was Hans Wagner, who resided in Germany. Bank 1’s records also indicate Account Owner 1’s city of residence and profession. Furthermore, Bank 1’s records indicate the name of a joint account owner and the dates of opening and closing of the account at issue.

Accounts 5026404, 5033633 and 5033634

Bank 2’s records indicate that Account Owner 2 was Carl Gustav Wagner, who resided in Meerance, Germany, and that the Power of Attorney Holder was Hans Wagner. Bank 2’s records also indicate a second city and country of residence for Account Owner 2 and the Power of Attorney Holder’s city and country of residence. Furthermore, Bank 2’s records indicate the dates of closing of the accounts at issue.

The CRT’s Analysis

Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

Identification of the Account Owners

As for Account 1014461, the CRT concludes that the Claimant has not identified Account Owner 1 as her relative. Although the name of her great-uncle matches the published name of Account Owner 1, the information provided by the Claimant differs materially from the unpublished information about Account Owner 1 available in Bank 1’s records. Specifically, the Claimant stated that her great-uncle resided in Hamburg and Berlin, Germany. In contrast, Bank 1’s records show that Account Owner 1 resided in a different German city, which is over 200 kilometers from Hamburg and 100 kilometers from Berlin. The CRT notes that the Claimant’s great-uncle’s cities of residence and Account Owner 1’s city of residence are all major German cities, rendering it unlikely that a resident of one of these cities would indicate as his or her city of residence the other city, including for purposes of maintaining a bank account. The CRT also notes that the Claimant did not identify the joint account owner, even though this person appears to be closely related to Account Owner 1. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant’s great-uncle are the same person.

As for Accounts 5026404, 5033633 and 5033634, the CRT concludes that the Claimant has not identified the Power of Attorney Holder as her relative. Although the name of her great-uncle matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the unpublished information about the Power of Attorney Holder available in Bank 2's records. Specifically, the Claimant stated that her great-uncle resided in Hamburg and Berlin, Germany. In contrast, Bank 2's records show that the Power of Attorney Holder resided in another city, which is over 400 kilometers from Hamburg and 150 kilometers from Berlin. The CRT notes that the Claimant's great-uncle's cities of residence and the Power of Attorney Holder's city of residence are major German cities, rendering it unlikely that a resident of one of these cities would indicate as his or her city of residence the other city, including for purposes of maintaining a bank account. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's great-uncle are the same person. In addition, the CRT notes that the Claimant did not identify Account Owner 2 as her relative, and 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 the Power of Attorney Holder, but not Account Owner 2, as her relative, the Claimant would not have been entitled to the account unless there was evidence in Bank 2's records that the Power of Attorney Holder and Account Owner 2 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 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. If more than one account has been denied in this Certified Denial, the Claimant should identify the Account Identification Number, which 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
6 May 2006