

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Eva Blumberg
represented by Jules Fink Esq.

in re Account of Emil Wagschal

Claim Numbers: 207440/MG; 211437/MG; 600917/MG^{1, 2, 3}

This Certified Denial is based on the claim of Eva Blumberg, née Wugshul, (the “Claimant”) to accounts of Emil Wagschal (also spelt Wugshul, Wagszal, Vakzal) and Ichil Wagschal (also spelt Wugshul, Wagszal, Vakzal). The CRT did not locate an account belonging to Ichil Wagschal (or Wugshul, Wagszal, Vakzal) 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 Emil Wagschal (the “Account Owner”) at the [REDACTED] (the “Bank”).

All denials are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Forms asserting that her paternal uncle, Emil Wagschal (also spelt Wugshul, Wagszal, Vakzal), who was born in Kowel, Poland, owned a Swiss bank account. The Claimant stated that her uncle was a businessman who lived and worked in Vienna, Austria in the mid-1930s. The Claimant also stated that her uncle was married and had two sons, however she could not recall their names. According to the Claimant, her uncle, who was Jewish, tried to move to Switzerland in the late 1930s but failed to obtain a visa and had attempted to move to England as well. The Claimant stated that she did not know the fate of her

¹ The Claimant submitted a claim, numbered B-00037, on 19 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 600917.

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 three claims of the Claimant in one proceeding.

³ The Claimant submitted an Initial Questionnaire with the Court in 1999 and Claim Forms to the CRT. The CRT is treating the Initial Questionnaire and the Claim Forms under the consolidated Claim Numbers 207440 and 211437.

uncle during the Holocaust. The Claimant indicated that she was born on 14 April 1924 in Kowel.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, Emil Wagschal. The auditors who carried out the ICEP Investigation reported one account whose owner's name matches that provided by the Claimant. 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 4022434

The Bank's records indicate that the Account Owner was Emil Wagschal, who resided in Austria and that the Power of Attorney Holder was Martin Schärf. The Bank's records also indicate the Account Owner's city of residence, work address, title, profession, and the names of other persons who jointly held the account with the Account Owner. Furthermore, the Bank's records indicate the dates of opening and closing of the account at issue. Finally, the Bank's records contain the Account Owner's signature.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Emil Wagschal. These records indicate Emil Wagschal's profession, title, city of residence, home address, date of birth, place of birth and the name of his spouse. Furthermore, these records contain Emil Wagschal's signature.

According to these records, Emil Wagschal's profession, title and signature match the profession, title and signature of the Account Owner, and therefore the CRT determines that they are the same person.

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 the Account Owner as her relative. Although the name of her uncle matches the published name of the Account Owner, the information provided by the Claimant differs materially from the unpublished information about the Account Owner available in the Bank's records. Specifically, the Claimant stated that her uncle was born in Poland, was a businessman, and that he resided in the mid-1930s in Vienna, Austria. In contrast, the Bank's records and the Austrian State Archive records show that the Account Owner had a different profession. Furthermore, the Bank's records indicate that the Account Owner resided in Austria before 1930. Moreover, the Austrian State Archive records indicate that the Account Owner was not born in Poland. In addition, the CRT notes that the Claimant did not identify the other persons who jointly held the account with the Account Owner. Consequently, the CRT is unable to conclude that the Account Owner and the Claimant's uncle are the same person.

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 claims 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
31 March 2005