

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] and [REDACTED 3]

in re Accounts of Otto Walter

Claim Number: 401936/WT

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Otto Walter (the “Account Owner”) at the Zurich branches of the [REDACTED] (“Bank I”) and the [REDACTED] (“Bank II”).

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 banks have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her father-in-law, Dr. Otto Walter, who was born on 2 May 1892 in Radautz, Romania, and was married to [REDACTED] on 5 April 1920 in Czernowitz, Romania (today Ukraine). The Claimant stated that her father-in-law and mother-in-law, who were Jewish, had one son, [REDACTED] (the Claimant’s late husband), who was born on 2 May 1921 in Vienna, Austria. The Claimant explained that her father-in-law was a doctor of medicine, whose home and office were located at Albertgasse 2 in Vienna VIII, and who specialized in mental health and orthodontics.

The Claimant stated that her father-in-law, her mother-in-law, and her mother-in-law’s parents and brother were arrested by the Gestapo on 22 March 1938, after they were denounced by a neighbor for giving valuables to neighbors for safekeeping. The Claimant stated that the valuables distributed to the neighbors were confiscated, and that other personal belongings of the family were seized from her father-in-law’s office and house. The Claimant explained that her father-in-law and his family members were held in custody and interrogated by the Gestapo for over one month. The Claimant also stated that her father-in-law was not allowed to practice medicine after the incorporation of Austria into the Reich in 1938 (the “*Anschluss*”) and that her husband was not allowed to finish his studies.

The Claimant stated that in 1939, her father-in-law and his family fled Austria to Czechoslovakia; in 1941 they fled to Yugoslavia and Istanbul, Turkey; and, in 1942 they reached

Jerusalem, Palestine (today Israel). According to the Claimant, her father-in-law remained in Jerusalem until 1948, when he emigrated to Paris, France, and in 1949 he emigrated to Australia.

The Claimant stated that Dr. Otto Walter died in Australia on 17 June 1969, and that her husband [REDACTED] died on 26 January 2002 in Sydney, Australia.

In support of her claim, the Claimant submitted copies of:

- (1) Her father-in-law's birth certificate, indicating that Otto Walter was born on 2 May 1892 in Radautz to [REDACTED] and [REDACTED], née [REDACTED].
- (2) Her husband's birth certificate, indicating that [REDACTED] was born on 2 May 1921 in Vienna to Otto and [REDACTED] Walter.
- (3) Her own birth certificate, indicating that [REDACTED 1] was born on 3 May 1929 in Vienna to [REDACTED] and [REDACTED], née [REDACTED].
- (4) Her husband's parents' marriage certificate, indicating that Otto Walter, a physician, and [REDACTED] were married on 5 April 1920 in Czernowitz.
- (5) A letter dated 6 October 1922 from the district administration of Vienna VIII, indicating that Austrian citizenship was granted to physician Otto Walter, his wife [REDACTED], and their son [REDACTED].
- (6) A printed announcement, indicating that on 7 May 1926 Dr. Otto Walter received his doctorate in medicine in Vienna.
- (7) A confirmation of the Vienna health administration issued on 12 May 1926, indicating that Dr. Otto Walter was registered to practice medicine.
- (8) Two certificates, indicating that Dr. Otto Walter participated in theoretical and practical lectures and courses in orthodontics between 1926 and 1928.
- (9) A letter dated 25 April 1938 to the Gestapo from Otto Walter (acting through his attorney, Dr. Richard Tutsch of Vienna), in which he requested that he and his family be released from custody, and indicating that they were arrested on 22 March 1938 at one o'clock in the morning after being denounced for giving valuables to neighbors to prevent them from being looted.
- (10) Asset registration records dated 29 June 1938, which Otto Walter was obliged to submit to the Nazi authorities, which are further described below.
- (11) Otto Walter's passport, issued in Vienna on 1 September 1938, indicating that he was born on 2 May 1892, that he resided in Vienna, that he was Jewish, and that he was a medical doctor.
- (12) A notice from the ministry for interior and cultural affairs in Vienna to the Vienna medical association, indicating that, based on the Fourth Decree of the Citizenship Law (*Vierte Verordnung zum Reichsbürgergesetz*) of 25 July 1938, Dr. Otto Walter's license to practice medicine in the German Reich was revoked on 30 September 1938.
- (13) Sheets from two prescription pads, one indicating that Dr. Otto Walter's practice was located at Albertgasse 2 in Vienna VIII, and one indicating that Dr. Otto Walter's practice was located in House Shishan, Jerusalem.
- (14) A receipt for the request for a French identity card issued on 24 December 1948 and valid until 15 March 1949, indicating that Otto Walter was a temporary resident in Paris and that he was of Palestinian nationality.

- (15) The Claimant's marriage certificate, indicating that [REDACTED 1] married [REDACTED] on 3 May 1953 in Sydney.
- (16) Her father-in-law's will, dated 19 May 1964, indicating that Dr. Otto Walter left his estate to his son [REDACTED].
- (17) Two obituaries, indicating that Dr. Otto Walter's wife, [REDACTED], died on 11 August 1960, and that Dr. Otto Walter died on 17 June 1969.
- (18) The Claimant's husband's will, dated 5 November 1982, indicating that [REDACTED] left his estate to his wife [REDACTED 1].
- (19) Her husband's death certificate, indicating that [REDACTED] died on 26 January 2002 in Sydney.

The Claimant indicated that she was born on 3 May 1929 in Vienna. The Claimant is representing her children, [REDACTED 2] and [REDACTED 3].

Information Available in the Bank's Records

Bank I

Bank I's records consist of protocols for the opening of two safe deposit boxes, excerpts from a list of accounts that were included in the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), and printouts from a database of accounts frozen in the 1945 Freeze.

According to these records, the Account Owner was Dr. Otto Walter, who resided in Prague, Czechoslovakia (today the Czech Republic), and whose last known address as of 22 March 1946 was Jerusalem, Palestine (today Israel). Bank I's records and the 1945 Freeze records indicate that the Account Owner held two safe deposit boxes, numbered 300 and 510, which were frozen pursuant to the 1945 Freeze.

Bank I's records indicate that safe deposit box 510 was opened on 23 February 1939, and that safe deposit box 300 was opened on 14 November 1939. According to these records, safe deposit box 510 and safe deposit box 300 were opened by Bank I employees on 21 and 22 March 1946, respectively, and their contents were inventoried, in accordance with regulations regarding assets frozen in the 1945 Freeze and under the auspices of the Swiss Office of Compensation ("*Schweizerische Verrechnungsstelle*"). According to Bank I's protocol of the opening of the safes, which shows that Dr. Walter resided in Jerusalem, the safe deposit boxes contained various pieces of jewelry (including rings, bracelets, broaches, and necklaces, all apparently made of gold or other precious metals and set with apparently precious stones), pocket watches, watch pendants, and cigarette cases (also apparently made of gold or other precious metals). The protocol records indicate that after the items were inventoried, they were placed in a packet sealed by the Swiss Office of Compensation and returned to Bank I for further safekeeping.¹

¹ The German original reads: "*Nach erfolgter Inventaraufnahme wurde der obgenannte Inhalt in dem nun von der S.V.St. [Schweizerische Verrechnungstelle] versiegelten Paket der Bank wieder zur Aufbewahrung übergeben.*"

The 1945 Freeze records indicate that safe deposit box 300 and safe deposit box 510 were released from the 1945 Freeze on 1 April 1947.

Bank II

Bank II's record consists of a customer card. According to this record, the Account Owner was Dr. Otto Walter, who was a physician, and who resided in Vienna, Austria; Istanbul, Turkey; Jerusalem, Palestine (today Israel); and Paris, France. Bank II's record indicates that the Account Owner held three demand deposit accounts, and one custody account numbered 63345. Bank II's record indicates that one demand deposit account was denominated in United States Dollars ("US \$") and that the other two demand deposit accounts were denominated in Swiss Francs ("SF"). Bank II's record further indicates that the two Swiss Franc-denominated demand deposit accounts were opened on 31 December 1939, and that custody account 63345 was opened on 30 December 1939. Bank II's record indicates that the demand deposit account denominated in US dollars was closed on 20 May 1940; that the Swiss Franc-denominated demand deposit accounts were closed on 31 December 1942 and 30 November 1948; and that custody account 63345 was closed on 12 February 1949. The amount in these accounts on their dates of closure is unknown.

The CRT requested the Voluntary Assistance of Bank II to obtain additional information about these accounts. Bank II provided the CRT with additional documents. These documents consist of account statements relating to custody account 63345. These records indicate that 7% *Farmers National Mortgage Institute, Budapest, mortgage sinking fund per 1 October 1963* bonds with a face value of SF 1,000.00 were deposited into the custody account on 30 December 1939. These records further indicate that on 1 February 1940, the following items were deposited into the custody account: two gold bars with a declared value of SF 4,900.00, Austrian gold coins with a declared value of SF 50.00, Turkish gold coins with a declared value of SF 100.00, ducat coins with a declared value of SF 35.00, French gold coins with a declared value of SF 500.00, US gold coins with a declared value of SF 4,900.00, additional Austrian gold coins with a declared value of SF 1,800.00, and Hungarian gold coins with a declared value of SF 800.00. These records additionally indicate that the place of deposit for the gold bars and coins was the *Westminster Bank, Ltd.*, in London, the United Kingdom.

Finally, these records indicate that the above-mentioned gold bars and coins were released (*freigestellt*) on 7 February 1949, and that the above-mentioned bonds were delivered (*ausgeliefert*) on 3 July 1947. As indicated above, the records show that the custody account was closed on 12 February 1949.

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

Dr. Otto Walter, numbered 37304, and dated 29 June 1938. The CRT notes that the Claimant also submitted copies of these records in support of her claim.

These records indicate that Dr. Otto Walter was Jewish, that he was born on 2 May 1892, that he was a physician, and that he was married to [REDACTED], née [REDACTED]. The records also indicate that his residence and medical practice were located at Albertgasse 2, Vienna VIII. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father-in-law's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant identified the Account Owner's profession and his residences in Istanbul, Jerusalem, and Paris, which match unpublished information about the Account Owner contained in the Banks' records. In support of her claim, the Claimant submitted numerous documents, including Otto Walter's birth and marriage certificates, an official letter regarding his Austrian citizenship, an announcement of his doctorate in medicine, certificates regarding his medical specialties, a letter to the Gestapo regarding the imprisonment of his family, his 1938 Census records, a note indicating the revocation of his Austrian citizenship, his passport, sheets from two prescription pads, a receipt for the request for a French identity card, his will, and two obituaries. These documents provide independent verification that the person who is claimed to be the Account Owner had the same name and profession and resided in the same cities recorded in the Banks' records as the name, profession, and cities of residence of the Account Owner.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different cities and countries of residence and different professions than the cities and countries of residence and profession of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish; that on 22 March 1938 he and his family members were arrested, held and interrogated for over one month by the Gestapo; that on 30 September 1938 his medical license was revoked; and that in 1939 he and his family fled Austria, first to Prague and ultimately to Jerusalem. The Claimant also submitted a letter, dated 25 April 1938, sent by the Account Owner's attorney to the Gestapo, requesting the release of the Account Owner and his family members from custody. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father-in-law. These documents include her late husband's birth certificate, her marriage certificate, the Account Owner's will, and her late husband's will. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

Bank I

The 1945 Freeze records indicate that safe deposit box 300 and safe deposit box 510 were still open as of 1 April 1947, when they were released from the 1945 Freeze. The protocol that recorded the contents of the safes during their inventory, pursuant to the 1945 Freeze regulations, indicates that the Account Owner resided in Jerusalem. The CRT notes that, according to information provided by the Claimant, the Account Owner resided in Jerusalem between 1942 and 1948. Given that the safes were frozen pursuant to the 1945 Freeze, and were released from the Freeze in 1947, and that both Bank 1 and the Swiss Compensation Office were aware of the Account Owner's residence in Jerusalem at the time that the safes were released from the Freeze, the CRT concludes that the Account Owner accessed the safe deposit boxes after their release from the Freeze and received the contents himself.

Bank II

Bank II's records indicate that two of the Account Owner's demand deposit accounts and his custody account, numbered 63345, were opened during the last two days of 1939, by which time, according to the information provided by the Claimant, the Account Owner and his family had already fled Austria. Further, Bank II's records indicate that the Account Owner deposited gold bars and coins, which were held at a bank in London, into custody account 63345 on 1 February 1940. The CRT additionally notes that the demand deposit account denominated in US dollars was closed on 20 May 1940; that the demand deposit accounts denominated in Swiss Francs were closed on 31 December 1942 and 30 November 1948; and that custody account 63345 was closed on 12 February 1949. Additionally, Bank II's records indicate that the Account Owner's residences were, in apparent chronological order, Vienna, Istanbul, Jerusalem, and Paris, which corresponds with information provided by the Claimant about the Account Owner's whereabouts before, during, and after the Second World War.

Consequently, given that the Account Owner opened at least three of his accounts at Bank II after fleeing Austria, that he was able to make a deposit to his custody account on 1 February 1940, and that he notified Bank II of his locations during and after the Second World War, the CRT concludes that the Account Owner retained control over these four accounts, which were closed during and after the War. Therefore, the CRT concludes that the Account Owner closed the four accounts at Bank II himself and received the proceeds.

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.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
17 September 2010