

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Accounts of Emil Weil

Claim Numbers: 210939/BW; 210912/BW; 210933/BW^{1, 2}

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Emil Weil (the “Account Owner”), over which Dr. [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at the Schaffhausen branch of the [REDACTED] (“Bank I”); the unpublished account of Emil Weil at the Lausanne branch of the [REDACTED] (“Bank II”); and the unpublished account of Emil Weil at the Montreux branch of the [REDACTED] (“Bank III”) (together “the Banks”).

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 Claim Forms identifying the Account Owner as her paternal grandfather, Emil Weil, who was born on 14 June 1866 in Hechingen, Germany. The Claimant indicated that Emil Weil married [REDACTED], née [REDACTED], on 9 August 1897 in Reutlingen, Germany, and that the couple had three children: [REDACTED] (the Claimant’s father); [REDACTED], née [REDACTED]; and [REDACTED], née [REDACTED]. According to the Claimant, Emil Weil, who was Jewish, was one of two owners of *J. Levi & Co.*, an international thread manufacturing company located in Hechingen, where Emil and [REDACTED] lived until 1939. The Claimant submitted documents indicating that the Jewish-owned company was forcibly sold by the Nazis in 1938, and that the family’s house was also forcibly sold.

¹ In a separate decision, the Claimant was awarded the account of *Frau* (Mrs.) Emil Weil. See *In re Account of Frau Emil Weil* (approved on 21 September 2005). Further, in a separate decision, the CRT treated the Claimant’s claims to the accounts of Alfred Weil. See *In re Accounts of Alfred Weil* (approved on 23 January 2006).

² The Claimant submitted one additional claim, which is registered under the Claim Number 214867. In a decision dated 6 March 2006, the CRT treated the Claimant’s claims to the accounts of Charlotte Weil, Paul Hellendall, Walter Hellendall, Ilse Hellendall, Jacob Hellendall, Amanda Hellendall, and Emilie Hellendall.

The Claimant stated that her father, [REDACTED], fled Germany for the United States with his wife and the Claimant in 1938, and that Emil and [REDACTED] fled Germany for Switzerland in 1939, with the hopes of following their son [REDACTED] to the United States. However, according to the Claimant, Emil and [REDACTED] were not granted visas until December 1941; consequently, Emil and [REDACTED] resided in Montreux, Switzerland from 1939 through December 1941.

The Claimant stated that Emil Weil passed away in New York, the United States, in 1949, and that his wife [REDACTED] died in 1957.

In support of her claim, the Claimant submitted: (1) copies of bank records, which are described in detail below, regarding certain accounts held at the Banks; (2) her paternal grandparents' marriage certificate, indicating that Emil Weil, a businessman from Hechingen, married [REDACTED] on 9 August 1897 in Reutlingen, Germany; (3) an acknowledgement form indicating that Emil Weil had filed a petition for United States naturalization on 7 August 1947; (4) her father's birth certificate, indicating that [REDACTED] was born on 9 May 1900, and that his parents were factory owner Emil Weil, who was Jewish, and [REDACTED], who was also Jewish; (5) a sworn affidavit signed by [REDACTED] and [REDACTED] of New York City, the United States, indicating that they supported the United States visa applications of [REDACTED]'s parents Emil Weil and [REDACTED], who were currently residing in Montreux, Switzerland; (6) an extract from a written history of the city of Hechingen, describing the history of the thread factory *J. Levi & Co.*, and indicating that Emil Weil was one of the company's owners, and that his son [REDACTED] was involved with the company; indicating also that the company was forcibly sold by the Nazis in 1938; that Emil and [REDACTED] fled Germany for Montreux, Switzerland in 1939; and that [REDACTED]'s daughter was [REDACTED]; (7) a letter dated November 1943 written by Emil Weil; and (8) the expired German passport of [REDACTED] dated 1937, which indicates that her child was [REDACTED], who was born on 17 March 1937.

The Claimant indicated that she was born on 17 March 1937 in Stuttgart, Germany.

Information Available in the Banks' Records

The CRT notes that the auditors who carried out the investigation of these banks 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 report an account belonging to Emil Weil during their investigation of the Banks. The Banks' documents were submitted by the Claimant to the CRT.

Bank I

Bank I's records consist of a power of attorney form dated October 1941, and numerous bank statements.

According to Bank I's records, the account owner was Emil Weil, who provided the Bank with a residence address in Montreux, Switzerland in October 1941. Bank I's records indicate that the Power of Attorney Holder over the account was Emil Weil's son, [REDACTED], who resided in October 1941 at 36 Arden Street, New York, New York, the United States.

Bank I's records indicate that Emil Weil held a custody account at the Bank, which was opened by December 1937, and was held under the customer relationship number 2109. Bank I's records indicate that in 1937 through 1939, the account number of the custody account was 7685, and that by 1945, the account number of the custody account was 1735. The records submitted by the Claimant indicate that from 1937 through 1948, this numbered account was held by the Account Owner solely under the customer relationship number 2109, and not under the Account Owner's actual name.

The Claimant did not submit any records regarding the account for the years 1940 through 1944. However, the Claimant did submit a letter written by the Account Owner dated November 1943, in which the Account Owner indicated to a relative that he "still held funds in Switzerland" which he could sell following the Second World War, but that correspondence with his Swiss bank in 1943 was "momentarily impossible."

The records from Bank I indicate that the custody account held by the Account Owner contained a number of securities. The Claimant submitted bank statements dated, *inter alia*, 7 April 1945, 17 May 1945, and 15 November 1945; the bank statement dated 7 April 1945 indicates that the account was debited 85.50 Swiss Francs ("SF"), an amount which was paid to the *Société des Entrepôts Vevey S.A.*, Vevey, Switzerland, to pay an invoice for warehouse fees and insurance for the storage of the Account Owner's furniture for the first quarter of 1945 (*Vergütung für Ihre Rechnung an die Société des Entrepôts Vevey S.A., Vevey, zum Ausgleich der Fakt. . . . für Lagergebühren & Versicherungsspesen... für Ihr Mobiliar für das I. Quartal 1945*).

The Claimant also submitted a bank statement dated 14 January 1948, which indicates the securities held in custody account 1735 on that date.

Bank II

Bank II's record consists of a letter dated 30 August 1939 from Bank II to *Monsieur* (Mr.) Emil Weil, who was residing at that time at *Pension Dents du Midi*, in Clarens, Switzerland. The letter indicates that the Account Owner was Emil Weil, who held a custody account containing securities at Bank II. The letter further states that the securities in the account were being held to guarantee the Account Owner's Swiss residence permit. The letter indicates that the Account Owner held securities in the approximate amount of SF 50,000.00 at Bank II in August 1939.

Bank III

The existence of the Account Owner's account at Bank III is referenced only through records stemming from other sources. In the August 1939 letter from Bank II to the Account Owner, Bank II indicates that it will credit the interest accrued on the Account Owner's account at Bank

II to the Account Owner's account at Bank III (*Nous avons prie bonne note de bonifier les intérêts à votre compte chez la [REDACTED] à Montreux.*)

The Claimant also submitted a check dated 9 December 1941, indicating that Emil Weil of the *Hotel des Palmiers*, Montreux, wrote a check in the amount of 500.00 United States Dollars ("US \$") to Dr. [REDACTED], which was made "by order of [Bank III] Montreux."

Finally, the Claimant submitted a copy of an email from her relative in Germany, indicating that he had reviewed the bank records concerning accounts held by their "grandfather Emil" and that the records included a 5 January 1948 statement or record from Bank III, addressed to Emil Weil of 590 Washington Ave., New York, New York. The CRT notes that the Claimant did not submit with her claim a statement or record dated 5 January 1948 from Bank III, although she did indicate to the CRT in 2001 that she would do so.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) 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.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's paternal grandfather's name and countries of residence match the unpublished name and countries of residence of the Account Owner, and the Claimant's father's name and city and country of residence match the unpublished name and city and country of residence of the Power of Attorney Holder. The CRT notes that the Claimant herself submitted the documents that show the existence of Swiss bank accounts held by her grandfather.

In support of her claims, the Claimant submitted documents, including her grandparents' marriage certificate, an acknowledgment of her grandfather's petition for United States naturalization, her father's birth certificate, an affidavit regarding Emil Weiss' United States visa application, and an extract from the history of the city of Hechingen, Germany, all providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same towns recorded in the Banks' records as the name and cities of residence of the Account Owner.

The Claimant also submitted a sample of her grandfather's signature, which matches the signature sample contained in Bank I's records.

The CRT notes that there are no other claims to these accounts.

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, and that he and his wife fled Germany for Switzerland in 1939. The Claimant also submitted an extract from a history of the city of Hechingen, which indicates that the Account Owner's business and home were forcibly sold by the Nazis.

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 paternal grandfather. These documents include her father's birth certificate, indicating that [REDACTED]'s father was Emil Weil; an affidavit written by [REDACTED] and [REDACTED] regarding the United States visa application of [REDACTED]'s father Emil Weil; an extract from a history of the city of Hechingen, indicating that Emil Weil's son was [REDACTED], whose daughter was [REDACTED]; and the expired passport of [REDACTED], indicating that her child was [REDACTED]. The Claimant indicated that she has other surviving relatives, but as they are not represented in the Claimant's claims, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The Issue of Who Received the Proceeds

With regard to the account at Bank I, Bank I's records indicate that the Account Owner held one custody account at Bank I, which was held under the customer account number 2109. Given that the Claimant submitted records indicating that the Account Owner was actively using an account at Bank I in April 1945, when he used the account to pay an invoice regarding the storage of his furniture in Switzerland; and that the Claimant also submitted a statement dated 14 January 1948, in which Bank I informed the Account Owner of the securities that he held in account 1735 on that date, a time at which the Account Owner was already residing in New York; the CRT concludes that the Account Owner was in contact with the Bank concerning his account held under the customer relationship number 2109 both at the conclusion of the Second World War, and after the Second World War, in 1948. Accordingly, the CRT concludes that the Account Owner received the proceeds of his account held under the customer relationship number 2109 at Bank I.

Bank II's records indicate that the Account Owner held an account at Bank II which contained securities which were held to guarantee the Account Owner's Swiss residence permit. Bank II's records also indicate that the interest on that account was paid to an account held by the Account Owner at Bank III.

The records evidencing the Account Owner's account at Bank III include an email submitted by the Claimant, indicating that her relative had reviewed a document dated 5 January 1948 which referred to the Account Owner's account at Bank III, and which indicated that the Account Owner resided at that time at 590 Washington Ave. in New York.

Given that the records indicate that Bank III was in contact with the Account Owner in 1948, and had been informed of his new address in New York by that time; that the Account Owner's account at Bank II was used to guarantee the Account Owner's Swiss residence permit, and that the Account Owner left Switzerland for New York in December 1941; that Bank II paid interest accrued on the Account Owner's account at Bank II to the Account Owner's account at Bank III; that the records indicate that the account at Bank III existed after the Second World War, and that the Account Owner had control over the account during and after the Second World War; the CRT concludes that the Account Owner also received the proceeds of his accounts both at Bank II and Bank III.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (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: 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
24 March 2011