

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]

in re Accounts of Wilhelm Weinberger and Leonora Weinbergerova

Claim Number: 709125/WT

This Certified Denial is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Rudolfine Fischer, née Weinberger.¹ This Denial is to the unpublished accounts of Wilhelm Weinberger (“Account Owner Weinberger”) and Leonora Weinbergerova (“Account Owner Weinbergerova”) (together the “Account Owners”) at the Geneva and Zurich branches of the [REDACTED] (the “Bank”).

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.

The July 2005 Award

On 15 July 2005, the Court approved an Award to [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) for three accounts held by the Account Owners (the “July 2005 Award”). In the July 2005 Award, the CRT determined that Account Owner Weinberger owned five accounts at the Bank: one custody account, three demand deposit accounts, and one safe deposit box. The CRT further determined that Account Owner Weinbergerova owned three accounts at the Bank: one custody account and two demand deposit accounts. The CRT determined that Claimant [REDACTED 2] plausibly identified Account Owner Weinberger as her grandfather and Account Owner Weinbergerova as her mother. The CRT additionally determined that Claimant [REDACTED 3], who is Claimant [REDACTED 2]’s maternal uncle, plausibly identified Account Owner Weinberger as his father and Account Owner Weinbergerova as his sister. The CRT further determined that the Account Owners were Victims of Nazi Persecution. The CRT determined that the Account Owners were able to access five of their eight accounts and receive the proceeds themselves: four of the accounts belonging to Account Owner Weinberger and two of the accounts belonging to Account Owner Weinbergerova. However, the CRT determined that it was plausible that Account Owner

¹ The CRT notes that 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 report an account belonging to Rudolfine Fischer, née Weinberger, in the Account History Database prepared pursuant to the ICEP Investigation.

Weinberger did not receive the proceeds of one demand deposit account, and that it was plausible that Account Owner Weinbergerova did not receive the proceeds of two demand deposit accounts. The CRT noted that the Bank's records did not indicate the value of the accounts, and therefore presumed that the value of each of the three demand deposit accounts was 2,140.00 Swiss Francs ("SF"). The resulting July 2005 Award amount was SF 80,250.00. In the July 2005 Award, the CRT noted that Claimant [REDACTED 2] submitted Account Owner Weinberger's will, indicating that his son and daughter, Claimant [REDACTED 3] and Leonora Weinberger (Claimant [REDACTED 2]'s mother), were his heirs. Finally, the CRT determined that Claimant [REDACTED 2] and Claimant [REDACTED 3] were each entitled to one-half of the award amount of Account Owner Weinberger's account, and that Claimant [REDACTED 2] was entitled to the total award amount for Account Owner Weinbergerova's accounts. The July 2005 Award did not address the entitlement of Claimant [REDACTED 1] to these accounts. This decision addresses Claimant [REDACTED 1]'s entitlement to the Account Owners' three awarded accounts.

Information Provided by Claimant [REDACTED 1]

Claimant [REDACTED 1], who is the cousin of Claimant [REDACTED 2] and Claimant [REDACTED 3], submitted an Initial Questionnaire ("IQ") identifying Account Owner Weinberger as her maternal uncle, Wilhelm Weinberger, who was the brother of [REDACTED], née [REDACTED] (Claimant [REDACTED 1]'s mother). Claimant [REDACTED 1] stated that her mother was an heir of Account Owner Weinberger.

In support of her claim, Claimant [REDACTED 1] submitted a copy of Wilhelm Weinberger's will. The CRT notes that the will is mostly illegible.

Claimant [REDACTED 1] indicated that she was born on 1 July 1921 in Vienna, Austria.

The CRT's Analysis

Claimant [REDACTED 1]'s Relationship to the Account Owners

Claimant [REDACTED 1] has plausibly demonstrated that she is related to Account Owner Weinberger by submitting specific biographical information demonstrating that Account Owner Weinberger was her maternal uncle. The information provided by Claimant [REDACTED 1] is consistent with the information provided by Claimant [REDACTED 2] and Claimant [REDACTED 3].

The CRT notes that although Claimant [REDACTED 1] did not identify Account Owner Weinbergerova, she identified Account Owner Weinberger. Given that the July 2005 Award determined that Account Owner Weinbergerova was the daughter of Account Owner Weinberger, the CRT concludes that Claimant [REDACTED 1], who is related to Account Owner Weinberger, is also related to Account Owner Weinbergerova. The CRT therefore

concludes that Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1] are related to the Account Owners.

Entitlement to the Accounts

Account Owner Weinberger's Account

According to Article 23(2)(a) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. Additionally, according to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance, but has not submitted an unbroken chain of wills, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with the principles of fairness and equity.

As described in the July 2005 Award, Account Owner Weinberger's will identified Account Owner Weinbergerova and Claimant [REDACTED 3] as his heirs. The CRT concluded that Claimant [REDACTED 2], as the daughter of one of Account Owner Weinberger's heirs, and Claimant [REDACTED 3], as the son of Account Owner Weinberger, were each entitled to receive one-half of the award amount of Account Owner Weinberger's account.

The CRT further notes that Claimant [REDACTED 1] indicated that she is an heir of Account Owner Weinberger. The CRT notes that Account Owner Weinberger's will, which is mostly illegible, does not indicate that Claimant [REDACTED 1], who is the niece of Account Owner Weinberger, is better entitled to his estate than Claimant [REDACTED 3], who is the son of Account Owner Weinberger, and Claimant [REDACTED 2], who is the granddaughter of Account Owner Weinberger. Accordingly, Claimant [REDACTED 1] is not entitled to share this portion of the award amount.

Account Owner Weinbergerova's Accounts

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation.

The CRT notes that Claimant [REDACTED 2] is the daughter of Account Owner Weinbergerova and has a better entitlement to Account Owner Weinbergerova's accounts than Claimant [REDACTED 3], the brother of Account Owner Weinbergerova. Additionally, Claimant [REDACTED 2], as the daughter of Account Owner Weinbergerova, has a better entitlement to Account Owner Weinbergerova's accounts than Claimant [REDACTED 1], who is Account Owner Weinbergerova's first cousin.

Accordingly, Claimant [REDACTED 2] is entitled to the entire award amount corresponding to Account Owner Weinbergerova's accounts; Claimant [REDACTED 3] and Claimant [REDACTED 1] are not entitled to any portion of Account Owner Weinbergerova's accounts.

Accordingly, Claimant [REDACTED 1] is not entitled to any portion of the total award amount of the July 2005 Award.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, Claimant [REDACTED 1] 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. Claimant [REDACTED 1] should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

Claimant [REDACTED 1] 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, Claimant [REDACTED 1] 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
30 August 2010