

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Account of Johann Julius Weiss
and
Accounts of Malvine Weiss-Silberberger
(Power of Attorney Holders Franz Weiss and Johann Julius Weiss)¹**

Claim Number: 205147/SB^{2,3}

This Certified Denial is based on the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of [REDACTED] and [REDACTED].^{4, 5} This Denial is to the published account of Johann Julius Weiss (“Account Owner 1”) at the [REDACTED] (the “Bank”) and the accounts of Malvine Weiss-Silberberger (“Account Owner 2”), over which Franz Weiss and Johann Julius Weiss held a power of attorney, at 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 bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form asserting that her paternal uncle, [REDACTED], who was born in 1888 in Vienna, Austria and was married to [REDACTED], in 1908 in Berlin, Germany, owned a Swiss bank account. The Claimant stated that her uncle, who was Jewish, resided in Berlin, where he owned a textile company named [REDACTED]. The Claimant further stated that her uncle fled Germany in 1938 for the United States. The Claimant explained that her

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.

² The Claimant submitted two Claim Forms. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 205147.

³ The Claimant submitted an Initial Questionnaire with the Court in 1999 and a Claim Form to the CRT. The CRT is treating the Initial Questionnaire and the Claim Form under the consolidated Claim Number 205147.

⁴ The CRT did not locate an account belonging to [REDACTED], 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”).

⁵ In this claim, the Claimant also claimed the account of [REDACTED]. The CRT will treat the claim to this account in a separate determination.

uncle died in 1978 in New York City, the United States. The Claimant stated that she was born on 30 May 1924 in Berlin.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by [REDACTED]

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, [REDACTED]. The auditors who carried out the ICEP Investigation reported five accounts whose owner's or power of attorney holder's names are substantially similar to 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 5030427

The Bank's records indicate that Account Owner 1 was Johann Julius Weiss, who resided in Vienna, Austria. The Bank's records also indicate Account Owner 1's street address and the date of opening of the account at issue.

Accounts 5023764, 5024771, 5033722 and 5033723

The Bank's records indicate that Account Owner 2 was Malvine Weiss-Silberberger, who resided in Austria, Vienna and that the Power of Attorney Holders were Johann Julius Weiss and Franz Weiss. The Bank's records also indicate Account Owner 2's street address and the Power of Attorney Holders' street addresses, cities and countries of residence. Furthermore, the Bank's records indicate the dates of closing of three of the accounts at issue. Finally, the Bank's records contain Account Owner 2's and Power of Attorney Holder Johann Julius Weiss' signatures.

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 Johann Weiss. These records indicate Johann Weiss' street address and city of residence in Austria. These records further indicate Johann Weiss's date of birth, his profession and the name of his wife, including her maiden name.

The CRT notes that Johann Weiss's street address and city of residence in Austria matches the street address and city of residence in Austria of Power of Attorney Holder Johann Julius Weiss, and therefore the CRT concludes that they are the same person.

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 Owner and Power of Attorney Holder

As for Account 5030427, the CRT concludes that the Claimant has not identified Account Owner 1 as her relative. Although the name of her uncle is substantially similar to the published name of Account Owner 1, the information provided by the Claimant differs materially from the published information about Account Owner 1 available in the Bank's records. Specifically, the Claimant stated that her uncle resided in Germany until 1938, when he fled to the United States, where he remained until his death. In contrast, the Bank's records show that prior to 1938, Account Owner 1 resided in Vienna, Austria. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant's relative are the same person.

As for Accounts 5023764, 5024771, 5033722 and 5033723, the CRT concludes that the Claimant has not identified Power of Attorney Holder Johann Julius Weiss as her relative. Although the name of her uncle is substantially similar to the published name of Power of Attorney Holder Johann Julius Weiss, the information provided by the Claimant differs materially from the published and unpublished information about Power of Attorney Holder Johann Julius Weiss available in the Bank's records and the Austrian State Archive records. Specifically, the Claimant stated that her uncle was born in 1888, that he resided in Germany until 1938, when he fled for the United States, where he remained until his death, and that he was married to [REDACTED], née [REDACTED]. In contrast, the Bank's records show that Power of Attorney Holder Johann Julius Weiss resided in another city and country. Further, the CRT notes that the Austrian State Archive records indicate that Power of Attorney Holder Johann Julius Weiss was born in a different year and was married to a different person. Consequently, the CRT is unable to conclude that Power of Attorney Holder Johann Julius Weiss and the Claimant's relative 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 Power of Attorney Holder Johann Julius Weiss, but not Account Owner 2, as her relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that Power of Attorney Holder Johann Julius Weiss 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 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 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
23 January 2006