

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]

**in re Account of Clara Wertheim
(Power of Attorney Holder Charlotte Wertheim)¹**

Claim Number: 209870/SJ/SB²

This Certified Denial is based on the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to an account of Charlotte Wertheim. The CRT did not locate an account belonging to Charlotte Wertheim 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 Clara Wertheim (the “Account Owner”) at 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 bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form asserting that her cousin, Charlotte Wertheim of Germany, who was married to [REDACTED], owned a Swiss bank account. The Claimant stated that she has very little information about Charlotte Wertheim as she was a young child who mainly lived in hiding throughout the Second World War. The Claimant stated that Charlotte Wertheim, who was Jewish, lived and died in Germany. The Claimant indicated that she was born on 31 October 1934 in Mainz, Germany.

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 substantially similar to that of the Claimant’s relative, even if the Claimant did not specifically claim that particular account and even if the Claimant could not identify the owner of the account as her relative.

² The Claimant submitted an additional claim to the account of Ida Weil, which is registered under the Claim Number 209871. The CRT will treat the claim to this account in a separate decision.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, Charlotte Wertheim. The auditors who carried out the ICEP investigation reported one account whose Power of Attorney Holder's name matches the name 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 5024085

The Bank's records indicate that the Account Owner was Clara Wertheim, who resided in Castéra-Lectourois, France, and that the Power of Attorney Holders were Martha Wertheim and Charlotte Wertheim. The Bank's records also indicate the Account Owner's address. The auditors who carried out the ICEP Investigation indicated the Power of Attorneys' city and country of residence. Furthermore, the Bank's records indicate the date the account at issue was opened. Finally, the Bank's records contain the Account Owner's and the Power of Attorney Holders' signatures.

The CRT's Analysis

Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules.

Identification of the Account Owner

The CRT concludes that the Claimant has not identified Power of Attorney Holder Charlotte Wertheim as her relative. Although the name of her cousin matches the published name of Power of Attorney Holder Charlotte Wertheim, the information provided by the Claimant differs from the unpublished information about Power of Attorney Holder Charlotte Wertheim available in the Bank's records. Specifically, the Claimant stated that her relative lived and died in Germany. In contrast, Power of Attorney Holder Charlotte Wertheim resided in a different country. In addition, the CRT notes that the Claimant did not identify the Account Owner nor the second Power of Attorney Holder as her relative, although they appear to be closely related to Power of Attorney Holder Charlotte Wertheim. Consequently, the CRT is unable to conclude that Power of Attorney Holder Charlotte Wertheim and the Claimant's cousin are the same person.

The CRT also notes that under Swiss law, a power of attorney holder is not considered to be the owner of an account. After the 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 the Power of Attorney Holder, but not the Account Owner, as her relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the Power of Attorney Holder and the Account Owner 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 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 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
30 September 2004