

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

Claimant Marguerite-Ady Flore Nyst
represented by [REDACTED]¹

and to the Estate of Claimant [REDACTED]²
represented by [REDACTED]

in re Accounts of Fernand Wolff and Marguerite-Ady Flore Wolff-Nyst

Claim Numbers: 222707/MBC;³ 222709/MBC

This Certified Denial is based upon the claim of [REDACTED] (“Claimant [REDACTED]”) and the claim of Marguerite-Ady Flore, née Nyst (“Claimant Nyst”) (together the “Claimants”) to the published accounts of Fernand Wolff (“Account Owner Wolff”) and Marguerite-Ady Flore Wolff-Nyst (“Account Owner Wolff-Nyst”) (together the “Account Owners”) at the Geneva branch of the [REDACTED] (the “Bank”).⁴

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.

¹ The CRT notes that, according to information provided by her legal guardian, Marguerite-Ady Flore Nyst (“Claimant Nyst”) suffers from advanced Alzheimer’s disease. The Court in Brussels, Belgium appointed [REDACTED] as her legal guardian, who filed a claim on the Claimant’s behalf.

² In a telephone conversation with the CRT, Claimant [REDACTED]’s son and representative, [REDACTED], informed the CRT that his father had passed away on 14 February 2002.

³ Claimant [REDACTED] (“Claimant [REDACTED]”) submitted an additional claim to the account of Richard Wolff, which is registered under the Claim Number 222706. In a separate decision, the CRT treated Claimant [REDACTED]’s claim to the account of Richard Wolff. See *In re Accounts of Richard Wolff* (approved on 24 April 2007).

⁴ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Fernand Wolff and Marguerite-Ady Flore Wolff-Nyst are indicated as having one account each. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts belonging jointly to Fernand Wolff and Marguerite-Ady Flore Wolff-Nyst.

Information Provided by the Claimants

Claimant Nyst

The Claimant's legal guardian submitted a Claim Form identifying Claimant Nyst and her husband as the Account Owners, Marguerite Ady Flore Wolff, née Nyst, and Fernand Wolff, who were born on 17 September 1911 in Schaerbeek, Brussels, Belgium and 21 May 1910 in Brussels, respectively. Claimant Nyst's legal guardian stated that Marguerite-Ady Flore Wolff-Nyst was a Belgian citizen, who lived in Brussels, and that she and her husband were married in September 1934 in Ixelles, a suburb of Brussels. In telephone conversations with the CRT, Claimant Nyst's legal guardian stated that the couple did not have any children, that Claimant Nyst was not Jewish, but that her husband was Jewish and that he was killed by the Nazis on 3 December 1943 in Brussels.

Claimant Nyst's legal guardian submitted a copy of Claimant Nyst's identity card indicating that her name is Marguerite Ady Flore Nyst and an Order of the Justice of Peace of Forest, Belgium, appointing her as Marguerite Nyst's legal guardian.

Claimant [REDACTED]

Claimant [REDACTED] submitted a Claim Form identifying the Account Owners as his brother, Fernand Wolff, and his brother's wife, Marguerite Ady Flore Wolff, née Nyst. Claimant [REDACTED] indicated that his brother was born on 21 May 1910 in Ixelles, and that he married his sister-in-law in September 1934 in Ixelles. Claimant [REDACTED] indicated that his brother was educated as an engineer, that he was a shareholder in and the administrator of a tennis racket factory, named *L'Oiseau Bleu*, and that he also sold sports equipment. Claimant [REDACTED] indicated that his brother and his sister-in-law resided at Avenue Louise 142 in Brussels. According to Claimant [REDACTED], his brother was a member of the Resistance, and was killed by the Nazis on 3 December 1943 in Brussels. In a telephone conversation with the CRT, [REDACTED], who is Claimant [REDACTED]'s son and legal representative, further explained the circumstances of his uncle's death. According to Claimant [REDACTED]'s son, his uncle, who was a member of the Resistance, was shot while trying to escape from a truck stopped at a German checkpoint. Claimant [REDACTED]'s son stated that, although his family did not practice Judaism, some of its members may have been of Jewish origin and that they feared anti-Semitic persecution. In an earlier telephone conversation with the CRT, [REDACTED] also stated that his family feared being identified as Jews by the Nazis.

In support of his claim, Claimant [REDACTED] submitted a document issued by the City of Brussels, indicating that, on 2 August 2001, Claimant [REDACTED] requested the death certificate of Fernand Wolff, the spouse of Marguerite Ady Flore Wolff, née Nyst; and an agreement with his sister-in-law's legal guardian, Mrs. Eliane Matthy, dated 2 August 2001, concerning the division of his brother and sister-in-law's assets.

Claimant [REDACTED] indicated that he was born on 17 October 1907 in Hasselt, Belgium.

Information Available in the Bank's Records

The Bank's records consist of an account-registry card, a signature card, dated 11 January 1936, and printouts from the Bank's database. According to these records, the Account Owners were Fernand Wolff and *Madame* (Mrs.) Marguerite (also known as Margot) Ady Flore Wolff-Nyst, who resided at 142 Avenue Louise in Brussels, Belgium. The Bank's records indicate that the Account Owners held a demand deposit account, numbered 17824, and a custody account, numbered 17824 S.O. The Bank's records indicate that, on an unknown date, a Director of the Bank's Basel branch requested that all correspondence to be held at the Bank. The Bank's records indicate further that, by a letter dated 27 July 1939 the Bank was requested to send all accumulated correspondence in an unmarked envelope.

The Bank's records indicate that both of the accounts were opened in 1935, and closed on 16 August 1939. The amount in the accounts on the date of their closure is unknown.

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 two claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Claimant Nyst's and her late husband's name, city and county of residence as well as Claimant [REDACTED]'s brother's and sister-in-law's name, city and county of residence match the published names, city and country of residence of the Account Owners. Claimant [REDACTED] identified the Account Owners' street address in Brussels, which matches unpublished information about the Account Owners contained in the Bank's records. The CRT further notes that the Claimants identified a family connection to both Account Owners even though they were published separately on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List").

In support of their claims, the Claimants between them submitted an Order of the Justice of Peace of Forest, Claimant Nyst's identity card, a document issued by the City of Brussels in 2001 and an agreement between Claimant Nyst's legal guardian and Claimant [REDACTED], providing independent verification that the persons who are claimed to be the Account Owners had the same or substantially the same names recorded in the Bank's records as the names of the Account Owners.⁵

⁵ The CRT notes that Claimant Nyst's identity card and the document appointing Claimant Nyst's legal guardian, indicate that her name was Marguerite Ady Flore Nyst rather than Marguerite Ady Flore Wolff-Nyst. However, the

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

Status of the Account Owners as Victims or Targets of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. As for Account Owner Wolff, Claimant Nyst's legal guardian stated that he was Jewish and that he was killed by the Nazis. Claimant [REDACTED]'s son stated that he did not know whether his uncle was Jewish, but that some of his family members may have been of Jewish origin and that they feared being identified as Jewish by the Nazis. Claimant [REDACTED]'s son also stated that his uncle was a member of the Resistance, and that he was killed by the Nazis. The CRT notes that, although in the light of Claimant [REDACTED]'s account it is impossible to determine with certainty whether Account Owner Wolff was Jewish, the CRT will construe his statement regarding Account Owner Wolff's Victim Status in a fashion most favorable to the Claimants. Accordingly, the CRT concludes that it is plausible that Account Owner Wolff was Jewish, or believed to be Jewish,⁶ as stated by the legal guardian of Claimant Nyst.

As for Account Owner Wolff-Nyst, the legal guardian of Claimant Nyst indicated that Claimant Nyst was not Jewish. However, since the CRT determined that Claimant [REDACTED] was either Jewish or believed to be Jewish, his wife would have been considered and targeted by the Nazis as Jewish. Accordingly, the Claimants have made plausible showing that Account Owner Wolff-Nyst was a Target of Nazi persecution.

The Claimants' Relationship to the Account Owners

As determined above, Claimant Nyst has plausibly demonstrated that she is Account Owner Wolff-Nyst and that Account Owner Wolff was her husband.

Claimant [REDACTED] has also plausibly demonstrated that he is related to the Account Owners by submitting detailed biographical information, demonstrating that the Account Owners were Claimant [REDACTED]'s brother and sister-in-law. The CRT further notes that Claimant [REDACTED] identified unpublished information about the Account Owners as contained in the Bank's records and that he submitted copies of a request for his brother's death certificate and an agreement with his sister-in-law's legal guardian. The CRT notes that these are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to Claimant [REDACTED] as family members, and all of this information supports the plausibility that Claimant [REDACTED] is related to the Account Owners, as he has asserted in his Claim Form.

There is no information to indicate that the Account Owners have other surviving heirs.

CRT considers it plausible that Claimant Nyst dropped the Wolff from her name some time following her husband's death.

⁶ The CRT notes that Article 46(26) of the Rules Governing the Claims Resolution Process (as amended) (the "Rules"), define Victims of Nazi Persecution as persons persecuted or targeted for persecution by the Nazis because "they were or were believed to be Jewish"

The Issue of Who Received the Proceeds

The Bank's records indicate that the two accounts were closed on 16 August 1939. The CRT notes that the Account Owners were Belgian and resided in Brussels as of the date when the accounts were closed. The CRT further notes that Belgium was invaded by the Nazis on 10 May 1940, over eight months after the accounts at issue were closed. Accordingly, the CRT concludes that the Account Owners closed the accounts and received the proceeds themselves.

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 and the Special Masters.

Claims Resolution Tribunal
13 February 2009