

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to Claimant [REDACTED 3]
represented by Erez Bernstein

in re Account of Ella Rosenthal

Claim Numbers: 773273/RS;¹ 775643/RS;² 501850/RS

This Certified Denial is based upon the claim of [REDACTED 1] (formerly [REDACTED]), née [REDACTED], (“Claimant [REDACTED 1]”), and the claim of [REDACTED 2] (formerly [REDACTED]) (“Claimant [REDACTED 2]”) to the accounts of Ella Rosenthal and Klara Levy; and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Ella Rosenthal.³ This Denial is to the published account of Ella Rosenthal (the “Account Owner”), over which Klara Levy (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).

All denials are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

¹ Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999, she submitted an Initial Questionnaire (“IQ”), numbered ENG-0117197, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 773273.

² Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT. However, in 1999, he submitted an IQ, numbered ENG-0207038, to the Court. In accordance with the procedure described in the previous footnote, the IQ has been assigned claim number 775643.

³ The account of Klara Levy, over which Ella Rosenthal held power of attorney, was previously awarded to Claimant [REDACTED 1] by the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001.

Claimant [REDACTED 1] and Claimant [REDACTED 2], who are related by marriage (Claimant [REDACTED 1] is the widow of Claimant [REDACTED 2]’s brother), submitted Initial Questionnaires (“IQs”) identifying the Account Owner as Claimant [REDACTED 2]’s paternal aunt and Claimant [REDACTED 1]’s late husband’s paternal aunt, and Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as his maternal great-grandmother’s brother’s daughter. The Claimants identified the Account Owner as Ella Rosenthal, who was born in 1880, and was never married. The Claimants indicated that Ella Rosenthal, who was Jewish, resided at Paradiesgasse 3, in the Free City of Danzig (now Gdańsk, Poland). According to the Claimants, Ella Rosenthal was deported in 1941 to the Warsaw ghetto, where she perished in 1942.

Claimant [REDACTED 1] and Claimant [REDACTED 2] further identified the Power of Attorney Holder as Ella Rosenthal’s close friend, Klara Levy. Claimant [REDACTED 1] and Claimant [REDACTED 2] indicated that Klara Levy, who was able to escape Nazi Germany by emigrating to Palestine (now Israel), deposited assets in a Swiss bank on behalf of Ella Rosenthal.

Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted copies of documents in support of their claims, including: 1) a letter to [REDACTED] in Berlin from his aunt Ella in Danzig, dated 1929; 2) a letter from Ella Rosenthal in Danzig to [REDACTED] in Berlin, dated 1936, indicating that their family was Jewish, and containing a reference to a person named [REDACTED]; 3) canceled envelopes from letters from Ella Rosenthal to [REDACTED] in Berlin, dated 1938 and 1941, with the return addresses of Paradiesgasse 3 in Danzig and an address in Warsaw, respectively; 4) Claimant [REDACTED 1]’s marriage certificate and Certificate of Naturalization as a British citizen, both dated 1945, indicating that [REDACTED 1] was married to [REDACTED] (formerly [REDACTED]), who was a German citizen and the child of [REDACTED]; 5) the affidavit of Claimant [REDACTED 2], dated 24 March 1955, indicating that he changed his name from [REDACTED] to [REDACTED 2]; 6) an inheritance document related to the estate of [REDACTED], dated 1969 in Berlin, indicating that his heirs were his sons [REDACTED] and [REDACTED 2]; and 7) Claimant [REDACTED 1]’s husband’s death certificate, dated 1994, indicating that [REDACTED] was born on 28 February 1921 in Germany and that [REDACTED 1] was his widow.

In support of his claim, Claimant [REDACTED 3] submitted copies of a Yad Vashem Memorial of Israel page of testimony submitted by his mother, [REDACTED], née [REDACTED], in 1991 for Ella Rosenthal, indicating that Ella Rosenthal was born on 23 November 1882 in Danzig, and that she lived in Danzig until 1941, that she was deported to Warsaw in March 1941, that she was a clerk, and that she was [REDACTED]’s father’s cousin; and a page of testimony submitted by [REDACTED] for her father [REDACTED], indicating that he was born on 12 December 1882 in Danzig and that he lived in Danzig, and that he was shot by Germans in September 1939.

Claimant [REDACTED 1] indicated that she was born on 8 June 1922 in Birmingham, the United Kingdom, and Claimant [REDACTED 2] indicated that he was born on 9 January 1926 in Berlin, Germany. Claimant [REDACTED 3] indicated that he was born on 11 January 1949 in Jerusalem, Israel.

Information Available in the Bank's Records

The Bank's records consist of a contract to open an account, a power of attorney form, and customer cards. According to these records, the Account Owner was *Frl.* (Miss) Ella Rosenthal, who resided at Paradiesgasse 3 in Danzig, and the Power of Attorney Holder was *Frl.* Klara Levy, who also resided in Danzig; these records further indicate that correspondence regarding the account was sent to the *Jewish Public Bank A.G.* in Danzig. Additional records indicate that the Power of Attorney Holder fled to Palestine by 1939 and that she resided with [REDACTED] in Tel-Aviv.

The Bank's records indicate that the Account Owner held a custody account, numbered 40970, which was opened on 17 March 1937 and was closed on 11 April 1939. The amount in the account on the date of its 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 three claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' relative's name and city and country of residence match the published name and city and country of residence of the Account Owner. Claimant [REDACTED 1] and Claimant [REDACTED 2] further identified the published name of the Power of Attorney Holder. In addition, the Claimants identified the Account Owner's marital status and street address, and Claimant [REDACTED 1] and Claimant [REDACTED 2] identified the country to which the Power of Attorney Holder emigrated, and the name of a person with whom the Power of Attorney Holder resided, all of which matches unpublished information about the Account Owner and the Power of Attorney Holder as contained in the Bank's records.

In support of their claims, Claimant [REDACTED 1] and Claimant [REDACTED 2] submitted documents, including various pieces of correspondence, providing independent verification that the person who is claimed to be the Account Owner had the same name and marital status, resided in the same city, and had the same street address recorded in the Bank's records as the name, marital status, city of residence, and street address of the Account Owner. The CRT further notes that the signature on these letters matches the signature of the Account Owner in the Bank's records. Claimant [REDACTED 3] submitted a Yad Vashem record, providing independent verification that the person who is claimed to be the Account Owner had the same

name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by Claimant [REDACTED 3]'s mother in 1991, which indicates that Ella Rosenthal was born on 23 November 1882 in Danzig, that she resided in Danzig, that she was single, that she was deported to Warsaw in 1941 and disappeared in 1942, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that she was deported to the Warsaw ghetto, where she perished in 1942. Claimant [REDACTED 1] and Claimant [REDACTED 2] also submitted correspondence indicating that the Account Owner was Jewish, that she resided in Danzig as of November 1938, and that she resided in Warsaw by July 1941. As noted above, a person named Ella Rosenthal was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 2] and Claimant [REDACTED 1] have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s paternal aunt and Claimant [REDACTED 1]'s husband's paternal aunt. These documents include correspondence from the Account Owner, indicating that she had a nephew named [REDACTED] and a biological relative [REDACTED], both of whom resided in Berlin; an inheritance certificate relating to [REDACTED]'s estate in Berlin, indicating that his children and heirs were [REDACTED] and [REDACTED 2]; Claimant [REDACTED 2]'s affidavit, dated 1955, indicating that he changed his name from [REDACTED] to [REDACTED 2]; and Claimant [REDACTED 1]'s marriage certificate and her husband's death certificate, indicating that she is the widow of [REDACTED] (formerly [REDACTED]).

Claimant [REDACTED 3] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 3]'s maternal great-grandmother's niece. The document includes a Yad Vashem page of testimony for Ella Rosenthal, indicating that she was [REDACTED]'s father's cousin.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on 11 April 1939, prior to the Nazi occupation of the Free City of Danzig, where the Account Owner resided, on 1 September 1939. Therefore, the CRT concludes that the Account Owner received the proceeds of the account.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimants 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 claims. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimants 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 Claimants 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
3 June 2009