

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Ruth Mote

in re Account of Leo Austerlitz

Claim Number: 200850/WT

This Certified Denial is based upon the claim of Ruth Mote, née Austerlitz, (the “Claimant”) to the published account of Leo Austerlitz (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All denials are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

The December 2002 Award

On 27 December 2002, the Court approved an Award to the Claimant for two demand deposit accounts held by the Account Owner at the Bank (the “December 2002 Award”). In the December 2002 Award, the CRT reserved decision with regard to a third demand deposit account held by the Account Owner. This Certified Denial addresses the account upon which decision was reserved in the December 2002 Award.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her paternal uncle, Leo Austerlitz, who was born and lived in Vienna, Austria. The Claimant stated that her uncle was Jewish, and that he perished in a concentration camp.

The Claimant indicated that she was born on 30 December 1922 in Vienna.

Information Available in the Bank’s Record

The Bank’s record consists of a customer card. According to this record, the Account Owner was Leo Austerlitz, who resided in Vienna, Austria. As indicated in the December 2002 Award, the Bank’s record indicates that the Account Owner held three demand deposit accounts. Two demand deposit accounts were closed on 31 March 1938; these were the accounts awarded to the Claimant in the December 2002 Award. The third demand deposit account was denominated in

British Pound Sterling and was closed on 31 December 1937. The Bank's record does not indicate the amounts in the accounts on the dates of closure.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets (the "1938 Census"). Since the issuance of the December 2002 Award, the CRT obtained copies of the 1938 Census record for Leo Austerlitz.

In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Leo Austerlitz, numbered 8648. Those documents indicate that Leo Austerlitz was born on 8 October 1878, that he resided at Gredlerstrasse 4b in Vienna, and that he was married to Lea Austerlitz, née Stern. The records further indicate that Leo Austerlitz was a businessman who held a fifty percent stake in the export business *Gabor Stern* in Vienna.

These records also indicate that on 20 June 1939 Leo Austerlitz was assessed flight tax (*Reichsfluchtsteuer*) in the amount of 27,318.00 Reichsmark ("RM"). These records make no mentions of assets held in Switzerland.

The CRT's Analysis

Identification of the Account Owner

The Claimant's uncle's name and country of residence match the published name and city and country of residence of the Account Owner. The Claimant also identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Leo Austerlitz, and indicates that his place of residence was Vienna, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he resided in Vienna, and that he perished in a concentration camp. The CRT notes that the 1938 Census records also indicate that Leo Austerlitz was forced to pay flight tax to the Reich in 1939.

As noted above, a person named Leo Austerlitz was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was the Claimant's paternal uncle. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's record, and that the Claimant also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess, and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

The December 2002 Award reserved decision pending further consideration by the CRT for one demand deposit account. The Bank's record indicates that the demand deposit account denominated in British Pound Sterling was closed on 31 December 1937. The CRT notes that this account was closed prior to the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). Therefore, the CRT concludes that the Account Owner closed this account and received the proceeds himself.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (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.

Claims Resolution Tribunal
30 August 2010