

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

**in re Account of Hermann Berger
and
Account of Walter Berger
(Power of Attorney Holder Hermann Berger)¹**

Claim Number: 221196/SB²

This Certified Denial is based on the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Hermann (Herman) Berger.³ This Denial is to the published account of Hermann Berger (“Account Owner 1”) at the [REDACTED] (“Bank 1”), and to the published account of Walter Berger (“Account Owner 2”), over which Hermann Berger (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (“Bank 2”)

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 great-uncle, Hermann Berger, who was born on 19 December 1885 in Vienna, Austria, and was married to [REDACTED], owned a Swiss bank account. The Claimant stated that her great-uncle, who was Jewish, was a salesman who resided in Vienna until 1938, when he fled Austria to Bruenn (today the Czech Republic). The Claimant further stated that her great-uncle was murdered by the Nazis in Dachau. The Claimant indicated that she was born on 16 September 1957 in Waterloo, Iowa, the United States.

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 three additional claims, which are registered under the Claim Numbers 221197, 221198 and 221199. The CRT will treat these claims in separate determinations.

³ The CRT did not locate an account belonging to Herman Berger 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”).

The Claimant submitted documents in support of her claim, including several family letters, written in 1939, which indicate that her great-uncle resided in Vienna and later Bruenn.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, Hermann Berger. The auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") reported two accounts whose owner's and power of attorney holder's names match 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 5027551

Bank 1's records indicate that Account Owner 1 was Hermann Berger, who resided in Renchen, Germany. Bank 1's records also indicate Account Owner 1's occupation.

Account 5026466

Bank 2's records indicate that Account Owner 2 was Walter Berger, who resided in Vienna, Austria, and that the Power of Attorney Holder was Hermann Berger. Bank 2's records also indicate the Power of Attorney Holder's city and country of residence, together with the name of a second power of attorney holder, Anna Berger.

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 Owners

As for Account 5027551, the CRT concludes that the Claimant has not identified Account Owner 1 as her relative. Although the name of her great-uncle matches 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 Bank 1's records. Specifically, the Claimant stated that her great-uncle resided in Austria until 1938, when he fled to Czechoslovakia. In contrast, Bank 1's records show that Account Owner 1 resided in Germany. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant's great-uncle are the same person.

As for Account 5026466, the CRT concludes that the Claimant has not identified the Power of Attorney Holder as her relative. Although the name of her great-uncle matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs from the information about the Power of Attorney Holder available in Bank 2's records. Specifically, the Claimant did not identify Account Owner 2 or the person who held power of attorney over these accounts, even though these persons appear to be closely related to the Power of Attorney Holder. Furthermore, the CRT notes that the Claimant did not identify Account Owner 2 as her relative. 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 the Power of Attorney Holder, but not Account Owner 2, as her relative, the Claimant would not have been entitled to the account unless there was evidence in Bank 2's records that the Power of Attorney Holder 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, which 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
8 August 2006