

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] and [REDACTED]

and to Claimants [REDACTED 2],
[REDACTED 3],
[REDACTED 4],
[REDACTED 5],
[REDACTED 6],
and [REDACTED 7]
all represented by [REDACTED 1]

in re Account of Henri Bernheim

Claim Numbers:

205655/AK; 205656/AK; 205657/AK; 205658/AK; 205659/AK; 213667/AK; 213668/AK;
213669/AK; 221354/AK; 221355/AK; 221370/AK; 221371/AK;
221427/AK; 221428/AK; 221429/AK; 222267/AK; 501594/AK; 501595/AK

This Certified Denial is based upon the claims of [REDACTED 4] (“Claimant [REDACTED 4]”) and [REDACTED 5] (“Claimant [REDACTED 5]”) to the published account of Henri Bernheim, and the claims of [REDACTED 6] (“Claimant [REDACTED 6]”), [REDACTED 7] (“Claimant [REDACTED 7]”), [REDACTED 2] (“Claimant [REDACTED 2]”), [REDACTED 3] (“Claimant [REDACTED 3]”), and [REDACTED 1] (“Claimant [REDACTED 1]”) (together the "Claimants") to the published accounts of Marguerite Bernheim, Mathieu Bernheim, and Marie Bernheim. This Denial is to the published account of Henri Bernheim (the “Account Owner”), over which Edmond Beretz (“Power of Attorney Holder Edmond Beretz”), Melanie Bernheim (“Power of Attorney Holder Melanie Bernheim”), and Alphonse Meis (“Power of Attorney Holder Alphonse Meis”) (together the "Power of Attorney Holders"), held power of attorney, at the [REDACTED] (the “Asset

Manager”).^{1, 2}

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

Claimant [REDACTED 4] and Claimant [REDACTED 5]

Claimant [REDACTED 4] and Claimant [REDACTED 5], who are siblings, submitted Claim Forms identifying the Account Owner as their paternal grandmother's cousin, Henri Bernheim, and Power of Attorney Holder Melanie Bernheim as Henri Bernheim's spouse, Melanie Bernheim, née Wagner. Moreover, Claimant [REDACTED 4] and Claimant [REDACTED 5] identified Power of Attorney Holder Edmond Beretz as their paternal grandfather, Edmond Beretz. Claimant [REDACTED 4] and Claimant [REDACTED 5] stated that Henri Bernheim was born on 12 December 1909 in Mulhouse, France, to [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 4] and Claimant [REDACTED 5] also stated that [REDACTED] and his brother, [REDACTED], were the sons of [REDACTED]. Claimant [REDACTED 4] and Claimant [REDACTED 5] further stated that Henri Bernheim, who was Jewish, was the director of a cinema. Claimant [REDACTED 4] and Claimant [REDACTED 5] also stated that Henri Bernheim resided at 18, Boulevard Tauler in Strasbourg, France, that he was captured by the Wehrmacht in 1939, and that he remained imprisoned until 1945. Finally, Claimant [REDACTED 4] and Claimant [REDACTED 5] stated that Henri Bernheim married Melanie Bernheim, née Wagner, on 2 August 1945 in Strasbourg, and that he died in Strasbourg on 27 May 1972.

Claimant [REDACTED 4] and Claimant [REDACTED 5] submitted documents including: 1) a certificate of inheritance, indicating that Claimant [REDACTED 4] and Claimant [REDACTED 5] are the sole heirs of Melanie Emilie Wagner, who was the widow of Henri Bernheim, and who resided at 18, Boulevard Tauler in Strasbourg; 2) an entry from a marriage registry, indicating that Henri Bernheim was married to Melanie Emilie Wagner; 3) an order from the municipality of Strasbourg, dated 15 May 1945, authorizing Henri Bernheim to repossess his residence at 18 Bld. Tauler, which had been occupied by a German national; 4) a statement of account from the *Badisch-Elsässische Bank AG*, indicating that Henri Bernheim withdrew securities from his

¹ In a separate decision, the CRT awarded the accounts of Mathieu Bernheim and Marie Bernheim to Claimant [REDACTED 2], Claimant [REDACTED 3] and Claimant [REDACTED 1]. See *In re Accounts of Mathieu Bernheim and Marie Bernheim* (approved on 8 August 2004). The CRT will treat the claims to the accounts of Marguerite Bernheim in a separate determination.

² The CRT notes that it has jurisdiction over accounts at *Fides AG* (the “Asset Manager”) under the Settlement Agreement reached by the parties to the Holocaust Victim Assets Litigation (the “Settlement Agreement”), even though the Asset Manager is not a bank. The Asset Manager is a subsidiary of a Swiss bank and was included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution, and the account was reported by the ICEP auditors.

custody account at that bank on 1 August 1945; and 5) the death certificate of Henri Bernheim, indicating that he died on 27 May 1972.

Claimant [REDACTED 4] indicated that he was born on 13 February 1954 in Strasbourg. Claimant [REDACTED 5] indicated that he was born on 6 May 1957 in Strasbourg.

Claimant [REDACTED 6], Claimant [REDACTED 7], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1]

Claimant [REDACTED 6], Claimant [REDACTED 7], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1] submitted Claim Forms providing sufficient familial information to permit the CRT to identify the Account Owner as their relative, Henri Bernheim, Power of Attorney Holder Edmond Beretz as their relative, Edmond Beretz, and Power of Attorney Holder Melanie Bernheim as their relative, Melanie Bernheim, née Wagner. The CRT notes that Claimant [REDACTED 6], Claimant [REDACTED 7], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1] did not explicitly identify Henri Bernheim and Melanie Bernheim as their relatives. However, they submitted sufficient information regarding their families to establish that they were also related to these individuals. The Claimants' specific, individual relationships to the Account Owner, Power of Attorney Holder Edmond Beretz and Power of Attorney Holder Melanie Bernheim are depicted in the family tree attached to this Denial (see Appendix, "The Descendants of [REDACTED]"). Claimant [REDACTED 6], Claimant [REDACTED 7], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1] did not provide any further information regarding Henri Bernheim and Melanie Bernheim, but indicated that Edmond Beretz was married to [REDACTED], née [REDACTED], with whom he resided in Strasbourg.

In support of their claims, Claimant [REDACTED 6], Claimant [REDACTED 7], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1] submitted documents, including: 1) a certificate of marriage, indicating that [REDACTED] married [REDACTED] on 5 November 1896, and that they had two children, [REDACTED] and [REDACTED]; 2) [REDACTED]'s certificate of death, indicating that Edmond Beretz reported that [REDACTED] died on 20 January 1930; 3) the certificate of inheritance of [REDACTED], née [REDACTED],³ demonstrating that her heirs were her son, [REDACTED], and her grandchildren, [REDACTED 6], [REDACTED 7], and [REDACTED]; 4) [REDACTED] and [REDACTED]'s passports and their Declarations of Intention, filed in the United States in 1942 in connection with their applications for U.S. citizenship, indicating that [REDACTED] was their only son; 5) a letter issued by a notary public in Mulhouse, France, in 2001, indicating that [REDACTED] died intestate; 6) and a certificate of inheritance, indicating that Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1] are the sole heirs of [REDACTED], née [REDACTED].

Claimant [REDACTED 6] indicated that he was born on 24 March 1924 in Strasbourg. Claimant [REDACTED 7] indicated that he was born on 11 May 1934 in Strasbourg. Claimant [REDACTED 2] indicated that he was born on 5 January 1956 in Mulhouse, Claimant [REDACTED 3] indicated that he was born on 9 July 1954 in Mulhouse, and Claimant

³ The CRT notes that "[REDACTED]," and "[REDACTED]," "[REDACTED]," and "[REDACTED]," as well as "[REDACTED]," and "[REDACTED]," are the French and German versions of the same names.

[REDACTED 1] indicated that he was born on 30 October 1959, also in Mulhouse. Claimant [REDACTED 1] is representing his relatives, [REDACTED], who was born on 28 June 1950 in Geneva, Switzerland, and [REDACTED], who was born on 23 April 1946 in New York, the United States.

Information Available in the Asset Manager's Records

The auditors who carried out the investigation of the Asset Manager to identify accounts of Victims of Nazi persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not submit original documents pertaining to the account at issue, but provided their report based on the analysis of records available at the Asset Manager's archive. According to this report, the Account Owner was Henri Bernheim, a French citizen, who resided at 18 Boulevard Tauler in Strasbourg, France, and the Power of Attorney Holders were Edmond Beretz of New York, New York, the United States, Mélanie Bernheim of Strasbourg, and Alphonse Meis, whose place of residence is not recorded.

The ICEP auditors reported that the Account Owner held one custody account, which was opened on 6 July 1936, and that the custody account had a balance of 184,286.90 Swiss Francs ("SF") on 20 August 1938. According to the auditors' report, the Asset Manager deposited the Account Owner's assets in banks in Switzerland, England, and Canada. The ICEP auditors recorded that code word "Abe" was used in correspondence pertaining to this account. Moreover, the auditors indicated that Power of Attorney Holder Alphonse Meis was granted power of attorney on 5 January 1939, and that the value of the account on this day was SF 200,901.95. Finally, the auditors reported that, on 20 June 1947, power of attorney was granted to Power of Attorney Holder Edmond Beretz and Power of Attorney Holder Melanie Bernheim, and that the Account Owner sent a personal letter to the Asset Manager on this date concerning the unblocking of his assets in Canada.

The auditors who carried out the ICEP Investigation did not find this account in the Asset Manager's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that the Asset Manager's records indicate that the account was active after 1945.

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 eighteen claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 4] and Claimant [REDACTED 5] have plausibly identified the Account Owner. Claimant [REDACTED 4] and Claimant [REDACTED 5]'s grandmother's cousin's name and city and country of residence match the published name and city and country of residence of the Account Owner. Claimant [REDACTED 4] and Claimant [REDACTED 5] identified the Account Owner's nationality and exact street address, which matches unpublished information about the Account Owner contained in the ICEP auditors' report on the account. The CRT notes that, while not all of the Claimants specifically identified the Account Owner, the information before the CRT establishes that the Account Owner is related to all of the Claimants. Moreover, the CRT notes that the Claimants identified the name of Power of Attorney Holder Edmond Beretz, and that most of the Claimants identified the name of Power of Attorney Holder Melanie Bernheim, which matches unpublished information contained in the ICEP auditors' report.

In support of their claims, Claimant [REDACTED 4] and Claimant [REDACTED 5] submitted documents, including a certificate of inheritance, indicating that Henri Bernheim was married to Melanie Emilie Wagner, and that they resided at 18, Boulevard Tauler in Strasbourg, and an order from a Strasbourg municipality, authorizing Henri Bernheim to repossess his residence at 18 Bld. Tauler, providing independent verification that the person who is claimed to be the Account Owner had the same name and street address recorded in the ICEP auditors' report as the name and street address of the Account Owner. Similarly, in support of their claims, Claimant [REDACTED 6], Claimant [REDACTED 7], Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 1] submitted [REDACTED]'s death certificate, indicating that Edmond Beretz reported his death, providing independent verification that the person who is claimed to be Power of Attorney Holder Edmond Beretz had the same name recorded in the ICEP auditors' report as the name of Power of Attorney Holder Edmond Beretz.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner, and also failed to identify the Power of Attorney Holders.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 4] and Claimant [REDACTED 5] have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 4] and Claimant [REDACTED 5] stated that Henri Bernheim was Jewish, and that he was imprisoned by the Nazis in 1939. Claimant [REDACTED 4] and Claimant [REDACTED 5] also submitted a document indicating that Henri Bernheim's residence in Strasbourg was seized during the Second World War.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 4] and Claimant [REDACTED 5] have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was their relative. Moreover, the biographical information submitted by all Claimants regarding their families plausibly demonstrates that all Claimants are related to the Account Owner, Power of Attorney Holder Edmond Beretz and Power of Attorney Holder Melanie Bernheim.

The CRT notes that Claimant [REDACTED 4] and Claimant [REDACTED 5] identified unpublished information about the Account Owner as contained in the ICEP auditors' report. Moreover, the Claimants submitted documents, including a certificate of inheritance, indicating that Claimant [REDACTED 4] and Claimant [REDACTED 5] are the sole heirs of Melanie Emilie Wagner, who was the widow of Henri Bernheim; [REDACTED]'s certificate of inheritance, indicating that Claimant [REDACTED 6], Claimant [REDACTED 7] and [REDACTED], are her grandchildren; a certificate of marriage, indicating that [REDACTED] married [REDACTED] on 5 November 1896; and a certificate of death, indicating that Edmond Beretz reported the death of [REDACTED]. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess, and further notes that these documents provide independent verification that the Claimants' relatives bore the same family name as the Account Owner. 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 Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms, and as is detailed in the family tree attached to this Denial. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The account report prepared by the auditors who carried out the ICEP Investigation indicates that the Account Owner sent a personal letter to the Asset Manager in 1947, and that he granted power of attorney over the account at issue to Power of Attorney Holder Edmond Beretz and Power of Attorney Holder Melanie Bernheim on 20 June 1947. This demonstrates that the Account Owner had contact with the Asset Manager after the Second World War, and that he also had control over, and access to, the specific account at issue in 1947. Therefore, the CRT concludes that the Account Owner had access to, and received, the proceeds of the claimed account.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimants 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 Claimants should send appeals in writing to the above address and should include all reasons for the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

Scope of the Denial

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of

records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
3 March 2006

Appendix:

[REDACTED]