

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]
represented by Bernard H. Goldberg

**in re Account of Helena Bornstein
and
Account of Helene von Goldberg
and
Account of Otto Bernstein
(Power of Attorney Holder Helene Bernstein)¹
and
Account of Jozef Bornstein
(Power of Attorney Holder Chaja Bornstein)**

Claim Number: 206150/AH²

This Certified Denial is based on the claim of [REDACTED], (formerly known as [REDACTED]) (the “Claimant”) to an account of Chaja (Helene or Helena) Bornstein (also spelled Börnstein), née Goldberg. This Denial is to the published account of Helena Bornstein (“Account Owner 1”) at the [REDACTED] (the “Bank”), the published account of Helene von Goldberg (“Account Owner 2”) at the Bank, the published account of Otto Bernstein (“Account Owner 3”) at the Bank, and the published account of Jozef Bornstein (“Account Owner 4”) at the Bank.

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 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 power of attorney holders’ names are substantially similar to that of the Claimant’s relative, even if the Claimant did not specifically claim that particular account and even if the Claimant could not identify the owner of the account as his relative. Moreover, the CRT recognizes that, in many cases, spellings of names have changed due to the passage of time in the decades since the Second World War, as well as due to the transcription of names into different languages.

² The Claimant submitted an Initial Questionnaire with the Court in 1999 and a Claim Form to the CRT. The CRT is treating the Initial Questionnaire and the Claim Form under the consolidated Claim Number 206150.

Information Provided by the Claimant

The Claimant submitted a Claim Form asserting that his mother, Chaja (Helene or Helena) Bornstein (also spelled Börnstein), née Goldberg, who was born on 26 September 1900 in Tarnow, Poland, owned a Swiss bank account. The Claimant indicated that his mother was married to Artur Bornstein on 15 January 1925 in Munich, Germany, and divorced him on 26 November 1930. The Claimant added that his mother never re-married and that he was her only child. The Claimant further indicated that his mother lived in Germany, worked as an office manager, and owned a small company called “ADA”, and that in 1936 she moved to Amsterdam, the Netherlands, where she remained until 1943. The Claimant added that in 1943, his mother, who was Jewish, was deported to Auschwitz, where she died on 11 February 1944. The Claimant indicated that he was born on 31 October 1925 in Berlin, Germany.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Helene Bornstein.

The Claimant submitted documents in support of his application, including: (1) the Claimant’s parents’ marriage and divorce certificates; (2) correspondence with the Red Cross indicating the Claimant’s mother’s date and place of birth, her Amsterdam address and her death in Auschwitz.

Information Available in the Bank’s Records

The CRT notes that the Claimant submitted a claim to an account belonging to his mother, Chaja (Helene or Helena) Bornstein (also spelled Börnstein), née Goldberg. 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 four accounts whose owners’ or power of attorney holders’ names match or are substantially similar to 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 5029407

The Bank’s records indicate that Account Owner 1 was Helena Bornstein, who resided in Lodz, Poland. The Bank’s records also indicate the name, address and title of a person who jointly owned the account at issue, and who appears to be closely related to Account Owner 1, as well as Account Owner 1’s title. Furthermore, the Bank’s records indicate the date of opening of the account at issue. Finally, the Bank’s records contain Account Owner 1’s and the joint account owner’s signatures.

Account 5035716

The Bank’s records indicate that Account Owner 2 was *Frau* (Mrs.) Helene von Goldberg, who resided in Montreux, Switzerland. The Bank’s records also indicate the name and title of a person who was the power of attorney holder to the account at issue and who appears to be

closely related to Account Owner 2. The Bank's records further indicate the power of attorney holder's country of residence, maiden name, spouse's name and place and date of death. In addition, the Bank's records also indicate Account Owner 2's date of death.

Account 5023710

The Bank's records indicate that Account Owner 3 was Otto Bernstein, who resided in Zagreb, Yugoslavia, and that the Power of Attorney Holder was Helene Bernstein. The Bank's records also indicate the city and country of residence of the Power of Attorney Holder of the account at issue, and the name of the Power of Attorney Holder's spouse. In addition, the Bank's records indicate Account Owner 3's profession, and the name and address of a legal entity associated with Account Owner 3. Finally, the Bank's records contain Account Owner 3's and the Power of Attorney Holder's signatures

Account 5029406

The Bank's records indicate that Account Owner 4 was Jozef Bornstein, who resided in Czestochowa, Poland, and that the Power of Attorney Holder was Chaja Bornstein. The Bank's records also indicate the address of the Power of Attorney Holder of the account at issue. Furthermore, the Bank's records indicate the date of opening of the account at issue.

The CRT's Analysis

Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules.

Identification of the Account Owners

As for Account 5029407, the CRT concludes that the Claimant has not identified Account Owner 1 as his relative. Although the name of his mother is substantially similar to the published name of Account Owner 1, the information provided by the Claimant differs materially from the published and unpublished information about Account Owner 1 available in the Bank's records. Specifically, the Claimant stated that his mother was born in Tarnow, Poland, and resided in Germany and then in the Netherlands until her deportation in 1943. In contrast, the Bank's records show that Account Owner 1 resided in Lodz, Poland, over 150 kilometers away from Tarnow. In addition, the CRT notes that the Claimant did not identify Account Owner 1's title, and the name, address and title of the person who jointly owned the account at issue, although this person appears to be closely related to Account Owner 1. Consequently, the CRT is unable to conclude that Account Owner 1 and the Claimant's mother are the same person.

As for Account 5035716, the CRT concludes that the Claimant has not identified Account Owner 2 as his relative. Although the maiden name of his mother is substantially similar to the published name of Account Owner 2, the information provided by the Claimant differs

materially from the published and unpublished information about Account Owner 2 available in the Bank's records. Specifically, the Claimant stated that his mother resided in Poland, Germany and the Netherlands. In contrast, the Bank's records show that Account Owner 2 resided in Switzerland. In addition, the Claimant stated that his mother died in 1944. In contrast, the Bank's records show that Account Owner 2 died in a different year. Moreover, the CRT notes that the Claimant did not identify Account Owner 2's title "von". In addition, the Claimant did not identify the power of attorney holder of the account at issue, although this person appears to be closely related to Account Owner 2. Consequently, the CRT is unable to conclude that Account Owner 2 and the Claimant's mother are the same person.

As for Account 5023710, the CRT concludes that the Claimant has not identified Power of Attorney Holder Helene Bernstein as his relative. Although the name of his mother is similar to the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the published and unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant stated that his mother resided in Poland, Germany and the Netherlands. In contrast, the Bank's records show that the Power of Attorney Holder resided in a different country. In addition, the Claimant stated that his mother was married to Artur Bornstein and never re-married. In contrast, the Bank's records show that the Power of Attorney Holder's spouse had a different name. Moreover, the Claimant also indicated that his mother was married on 8 January 1925, whilst the Bank's records indicate that the Power of Attorney Holder went by the name Bornstein prior to that date. Furthermore, the CRT notes that the Claimant did not identify Account Owner 3 or the name of the legal entity associated with Account Owner 3. The CRT also notes that the Claimant's mother's last name was spelled Bornstein, whereas the Power of Attorney Holder's last name was spelled Bernstein. Consequently, the CRT is unable to conclude that Power of Attorney Holder Helene Bernstein and the Claimant's mother are the same person.

As for Account 5029406, the CRT concludes that the Claimant has not identified Power of Attorney Holder Chaja Bornstein, as his relative. Although the name of his mother matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the published and unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant stated that his mother was born in Tarnow, Poland, and resided in Germany and then in the Netherlands until her deportation in 1943. In contrast, the Bank's records show the Power of Attorney Holder resided in a different city, over 200 kilometers away from Tarnow. Furthermore, the CRT notes that the Claimant did not identify the name, city and country of residence of Account Owner 4 although he had the same last name as the Power of Attorney Holder. Consequently, the CRT is unable to conclude that Power of Attorney Holder Chaja Bornstein and the Claimant's mother are the same person.

The CRT also notes that 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 cease to exist, and thus do not pass to his or her heirs. Therefore, even if the Claimant had identified the power of attorney holder, but not the account owner, as his relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the power of attorney holder and the account owner 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 the Special Master, c/o Claims Resolution Tribunal, P.O. Box 9564, 8036 Zurich, Switzerland.

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 that 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 his 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
18 August 2004