

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]

and to the Estate of Claimant [REDACTED 2]

in re Accounts of Aladar Lukacs

Claim Numbers: 601241/MBC;¹ 753567/MBC; 774694/MBC; 779244/MBC²

This Certified Denial is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to an account of Emanuel (Mano) Melesz³ and upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to an account of Aladar Lukacs. This Denial is to the unpublished accounts of Aladar Lukacs (the “Account Owner”) at the Geneva branch of the [REDACTED] (the “Bank”).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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

¹ [REDACTED 1], née [REDACTED] submitted a claim, numbered B-02222, on 6 June 2000, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601241.

² [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1998 he submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-NYC-R-80-309-010-729, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Moreover, in 1999 [REDACTED 2] submitted two Initial Questionnaires (“IQ”), numbered ENG 0170 046 and ENG 0359 098, to the Court in the United States. Although these IQs were not Claim Forms, 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. *See* Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004) and Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). Claimant [REDACTED 2]’s ATAG Form and IQs were forwarded to the CRT and have been assigned claim numbers 753567, 7774694, and 779244 respectively. The CRT notes that [REDACTED 2] passed away on 1 October 2001.

³ The CRT will treat the claim to this account in a separate determination.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted a claim to the Holocaust Claims Processing Office (“HCPO”) and Claimant [REDACTED 2], Claimant [REDACTED 1]’s late husband, submitted an ATAG Ernst & Young claim form in 1998 and two Initial Questionnaires (“IQs”) with the Court in 1999 identifying the Account Owner as Claimant [REDACTED 2]’s paternal cousin, Aladar Lukacs, the son of [REDACTED], Claimant [REDACTED 2]’s paternal uncle. Claimant [REDACTED 2] stated that his father, [REDACTED], was born in March 1889 in Verebély, Hungary (now Vrable, Slovakia), and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 2] indicated that his father resided in Ujpest, Hungary and owned a leather store. Claimant [REDACTED 2] stated that his father and uncle, who were Jewish, perished in the concentration camp in Auschwitz and that his cousin, who was Jewish, was killed in the concentration camp in Mauthausen. Claimant [REDACTED 2] further indicated that he was an only child and his uncle and cousin had no surviving heirs. Claimant [REDACTED 2] submitted his birth certificate, indicating that he was born on 17 April 1922 in Hungary to [REDACTED].

Claimant [REDACTED 2] attached to his claim a letter, dated 1 March 1998, in which he explained that his father, [REDACTED], and his uncle, [REDACTED], sent his cousin, Aladar Lukacs, to Switzerland to open a bank account.

In his letter, Claimant [REDACTED 2] stated that, in February 1939, his cousin opened a bank account numbered L.M. 24.111 and a safe deposit box numbered 678 in Switzerland. Claimant [REDACTED 2] stated that the safe deposit box contained jewelry that belonged to his parents. Claimant [REDACTED 2] submitted several account statements he received from the Bank, indicating that the balance of the account was 5,849.85 Swiss Francs (“SF”) as of 19 August 1949. Claimant [REDACTED 2] indicated in his letter that between 26 June 1950 and 11 July 1950 he was able to withdraw money from account number L.M. 24.111, but that he suspected that there had been much more money deposited in it. Claimant [REDACTED 2] further stated that in 1950, while in Salzburg, Austria as a refugee, he was denied entry to Switzerland for the purpose of locating the family’s accounts.

Claimant [REDACTED 2] stated that he appointed Dr. Eugen Rapoch to locate the family’s accounts. Claimant [REDACTED 2] stated further that he never appointed Dr. Eugen Rapoch to dispose of his family’s assets. Claimant [REDACTED 2] indicated that Dr. Eugen Rapoch found account L.M. 24.111 and safe deposit box 678, and that he transferred the contents of safe deposit box numbered 678 to a safe deposit box numbered 838. Claimant [REDACTED 2] stated that Dr. Eugen Rapoch received the key to the new safe deposit box. Claimant [REDACTED 2] explained that later he lost contact with Dr. Rapoch. Claimant [REDACTED 2] submitted a letter, dated 14 December 1995, from the Bank regarding safe deposit box 838a, which was held in the name of Mr. Aladar Lukacs, in which the Bank wrote that “...we are informing you that we no longer hold a box rented to captioned client, the contract having been terminated four decades ago.” Finally, Claimant [REDACTED 2] indicated in his letter that, in the summer of 1996, he and his wife visited the Bank in Geneva to inquire about his family’s accounts and the family jewelry. Claimant [REDACTED 2] stated that the Bank’s official response was that they had no information about these accounts. In support of his claim,

Claimant [REDACTED 2] submitted a copy of a protocol of forced opening of safe deposit box 678, dated 3 August 1950.

Claimant [REDACTED 1] indicated that she was born on 3 January 1924 in Ujpest, Hungary.

Claimant [REDACTED 2] indicated that he was born on 17 April 1922 in Ujpest.

Information Available in the Bank's Records

The CRT notes that the auditors who carried out the investigation of this bank 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 report an account belonging to Aladar Lukacs during their investigation of the Bank. The Bank's documents were submitted by the Claimants or obtained from the Bank by the HCPO on the Claimants' behalf and were forwarded to the CRT.

Claimant [REDACTED 2] submitted the Bank's protocol of the opening of safe deposit box number 678, dated 3 August 1950. According to this protocol the Account Owner was Aladar Lukacs, who rented the safe deposit box on 28 February 1939. The protocol indicated that Claimant [REDACTED 2], who resided at the time of the safe's opening in Toronto, Canada, instructed the Bank to open the safe deposit box and prepare an inventory of its contents, and that Dr. Eugen Rapoch, who represented the heirs of the Account Owner, consented to the opening of the safe. According to the protocol, the safe deposit box was opened in the presence of Dr. Rapoch and a bank employee. The protocol lists the contents of the safe deposit box as follows:

- a) a copy of the safe deposit box rental contract signed by the Account Owner on 28 February 1939;
- b) a receipt and several deposit slips regarding an account belonging to Aladar Lukacs at the Geneva branch of the Bank;
- c) a handwritten list, the copy of which was to be attached to the protocol;
- d) a small bag containing jewelry: four rings with brilliants, two earrings with brilliants, a brooch with brilliants, a chain and a pendant with brilliants.

According to the protocol, which was signed by Dr. Eugen Rapoch and the bank employee, the contents of the safe deposit box were transferred to safe deposit box number 838a in the name of Aladar Lukacs. The key to the new safe was put in a sealed envelope, which Dr. Eugen Rapoch signed, which was to be kept in the Bank at the disposal of the heirs of the Account Owner.

Claimant [REDACTED 2] also submitted account statements for numbered account 24.111. Additional Bank's documents were obtained from the Bank by the HCPO on Claimant [REDACTED 2]'s behalf and were forwarded to the CRT. These records consist of two customer cards, two power of attorney forms, and a list of terminated power of attorneys. According to these records, the Account Owner was Aladar Lukacs, who resided at Arpad ut. 53, Ujpest, Hungary and the power of attorney holders were Mor Lukacs and Mano Melesz.

The Bank's records indicate that the Account Owner held three demand deposit accounts, all numbered 21.539, which were denominated in Swiss Francs, in United States Dollars, and in

Pounds Sterling. According to the Bank's records, the Bank was informed about the Account Owner's death on 13 March 1947. The Bank's records further indicate that on 19 August 1949 some of the assets from the Account Owner's accounts were transferred to a numbered account, which was held under the designation 24.111 and which was owned by Claimant George Melesz. The Bank's records further indicate that accounts 21.539 were closed on 30 June 1961, and that the proceeds of the accounts were sent by cheques to a person whose rights to the Account Owner's accounts were proved in litigation (*envois de chèques à l'ayant-droit par Contentieux*). Finally, the Bank's records indicate that account 24.111 was closed on 8 August 1950 and that SF 3,000.00 and an unspecified amount in United States Dollars were transferred to Claimant George Melesz to Canada.

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. Claimant [REDACTED 2] cousin's name, city, and country of residence match the unpublished name, city, and country of residence of the Account Owner. The Claimants have also identified the unpublished names of the power of attorney holders. In support of his claim, Claimant [REDACTED 2] submitted his birth certificate, indicating he was born to [REDACTED] in Hungary, and a letter he wrote on 1 March 1998, in which he explained that his father, [REDACTED], and his uncle, [REDACTED] Lukacs, sent his cousin, Aladar Lukacs, to Switzerland to open a bank account. These documents provide independent verification that the person who is claimed to be the Account Owner and the persons who are claimed to be the power of attorney holders 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 person named Aladar Lukacs, and indicates that he resided in Ujpest, Hungary, which matches the information about the Account Owner provided by Claimant [REDACTED 2]. 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 these accounts.

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 he died in Mauthausen.

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

The Claimants' Relationship to the Account Owner

The Claimants 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 cousin.

The Issue of Who Received the Proceeds

In this case, the Account Owner held three demand deposit accounts, all held under number 21539, and a safe deposit box, numbered 678.

With regards to the three demand deposit accounts, the CRT notes that some of the assets in these accounts were transferred to Claimant [REDACTED 2]'s personal account on 19 August 1949, and that the remaining assets were transferred in June 1961 to a person whose rights to the Account Owner's assets were proved in litigation. Therefore, the CRT concludes that the Account Owner's heirs had access to the accounts at issue after 1945 and that they closed the accounts and received the proceeds themselves.

With regards to safe deposit box number 678, the CRT notes that Claimant [REDACTED 2] instructed the Bank to open the safe deposit box and prepare an inventory of its contents, and that the Bank followed Claimant [REDACTED 2]'s instructions, opened the safe deposit box on 3 August 1950 in the presence of the representative of the Account Owner's heirs, prepared the inventory of its contents, transferred the contents to another safe deposit box, and put the key to the new safe deposit box in a sealed envelope at the disposal of the heirs of the Account Owner. The CRT notes that the protocol of the opening of the safe deposit box was delivered to Claimant [REDACTED 2]. Thus, it is clear that Claimant [REDACTED 2] and the Account Owner's heirs had access to his safe deposit box. Accordingly, the CRT concludes that the Account Owner's heirs received the proceeds of the Account Owner's safe deposit box.

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).

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.

Certification of the Denial

The CRT certifies this Denial for approval by the Court and by the Special Masters.

Claims Resolution Tribunal
30 November 2005