

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Estate of Claimant [REDACTED]

in re Accounts of Bernhard Rosenschein

Claim Number: 601673/PY¹

This Certified Denial is based upon the claim of [REDACTED] (the “Claimant”) to the unpublished accounts of Bernhard Rosenschein (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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.

Information Provided by the Claimant

The Claimant submitted a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as his father, Bernhard Rosenschein, who was born in Germany, and was married to [REDACTED], née [REDACTED]. The Claimant stated that [REDACTED] and Bernhard Rosenschein had one child, [REDACTED] (the Claimant). The Claimant stated that Bernhard Rosenschein, who resided in Berlin, Germany, owned a retail menswear store named *City Club*, a hat manufacturing business, and a cinema. The Claimant stated that his father, who was Jewish, fled Germany first to Milan, Italy, where he resided at Via Francesco Hayez 17, and later to New York, New York, the United States, where he passed away on 7 October 1939.

In support of his claim, the Claimant submitted Bernhard Rosenschein’s death certificate, indicating that he was from Germany and that he died on 7 October 1939; the death certificate of [REDACTED]; Bernhard Rosenschein’s will, dated 10 May 1939 in New York; the petition for probate of Bernhard Rosenschein’s will, filed by his wife, [REDACTED], and indicating that Bernhard Rosenschein’s son was [REDACTED]; and [REDACTED] and [REDACTED]’s wills. In addition, the Claimant submitted records relating to Bernhard Rosenschein’s accounts at the Bank, and correspondence from the Bank to the HCPO between 1998 and 2000, enclosing

¹ Claimant [REDACTED] initially submitted a claim, numbered B-00704, on 24 February 1998, 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 601673. Claimant [REDACTED] passed away on 29 September 2000.

records for the accounts of Bernhard Rosenschein located by the Bank. These records pertaining to Bernhard Rosenschein's accounts are more fully described below.

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 Bernhard Rosenschein during their investigation of the Bank. As indicated above, the Bank's documents were obtained from the Claimant and from the Bank by the HCPO on the Claimant's behalf and were forwarded to the CRT.

The records consist of a letter from the Bank dated 27 October 1998, a customer card, a custody account registry card, letters from the Bank and forms for the Account Owner to confirm the account balances (*Richtigbefundsanzeige*) dated 14 October 1938 and 22 March 1939, a certificate of deposit, and a debit note. According to these records, the Account Owner was Bernhard Rosenschein, who resided at Via Francesco Hayez 17 in Milan, Italy. These records indicate that the Account Owner held three demand deposit accounts, two of which were denominated in Swiss Francs ("SF") and the other of which was denominated in United States Dollars ("US \$"), a custody account, numbered L 56727, and a debit account, which was opened in 1937. According to the certificate of deposit, bonds issued by the city of Zurich (*4% Obl. Stadt Zürich von 1934*) with a nominal value of SF 7,000.00 were deposited in the custody account on 29 August 1936.

The Bank's records indicate that on 22 November 1938, the Account Owner transferred SF 30.00, which was the equivalent of 16.90 Reichsmark ("RM"), to *Frau* (Mrs.) Martha Selten in Breslau, Germany. The records further indicate that as of 14 March 1939, the Bank was instructed to address Bernhard Rosenschein in care of the *Bankers Trust Company* in New York, New York, the United States. According to the letter dated 14 October 1938, the Account Owner owed the Bank SF 6,115.00 as of that date. The customer card indicates that the loan account was closed by way of transfer ("*übertragen auf Kred.*") to one of the Account Owner's demand deposit accounts denominated in Swiss Francs on 31 December 1938. In the letter from the Bank dated 27 October 1998, the Bank stated that "[a]dditional documents we have located suggest that this negative balance was debited to Mr. Rosenschein's current account in December 1939" [sic]. According to the letter dated 22 March 1939, which was sent to the *Bankers Trust Company* in New York, this demand deposit account had a balance of SF 22,914.50 as of that date. The Bank's records show that this account was closed on 31 March 1939.

The Bank's records further indicate that the demand deposit account denominated in United States Dollars was closed on 31 July 1937, and that one of the other two demand deposit accounts denominated in Swiss Francs was closed on 10 November 1936, although the letter dated 27 October 1998 mistakenly indicates that this particular account was closed instead on 11

October 1936.² Finally, the Bank's records indicate that the custody account was closed on 21 April 1939.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the unpublished name of the Account Owner. In support of his claim, the Claimant submitted his father's death certificate and will, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. The CRT notes that there are no other claims to these accounts.

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 and that he fled Germany, first to Italy and then to the United States.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents demonstrating that the Account Owner was his father. These documents include the petition for probate of the Account Owner's will, indicating his son's name as [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

With regard to the demand deposit account denominated in Swiss Francs that was closed on 10 November 1936, the CRT notes that this account was closed prior to the opening of the Account Owner's loan account at the Bank in 1937. The fact that the Account Owner opened another account following the closure of the demand deposit account indicates that the Account Owner had control over his assets at this point in time. The CRT therefore concludes that the Account Owner closed this account and received the proceeds himself.

With regard to the demand deposit account in US Dollars that was closed on 31 July 1937, the CRT notes that this account was closed prior to the Account Owner's transfer of SF 30.00 to *Frau* Martha Selten on 22 November 1938, and in the same year that the Account Owner opened a debit account at the Bank. These circumstances indicate that the Account Owner had control

² The CRT notes that the customer card indicates that the account was closed on "10.11.36," which refers to the date 10 November 1936, but which was mistakenly transcribed as 11 October 1936 in the Bank's letter, dated 27 October 1998.

over his assets as this moment in time. The CRT therefore concludes that the Account Owner closed this account and received the proceeds himself.

With regard to the debit account that was closed on 31 December 1938, the CRT notes that the Bank's records indicate that this account was closed by way of transfer ("*übertragen auf Kred.*") to the Account Owner's demand deposit account. The CRT therefore concludes that the Account Owner closed this account and received the proceeds, if any, himself.

With regard to the demand deposit account that was closed on 31 March 1939 and the custody account that was closed on 21 April 1939, the CRT notes that the Account Owner contacted the Bank on 14 March 1939 to provide it with a new address in care of the *Bankers Trust Company* in New York, and that the Account Owner had himself moved to New York sometime prior to May 1939. Moreover, the account statement relating to the Account Owner's demand deposit account dated 22 March 1939 was specifically addressed to the *Bankers Trust Company* in New York, and both this demand deposit account and the custody account were closed shortly thereafter on 31 March 1939 and 21 April 1939. Given these facts and circumstances, the CRT concludes that the Account Owner was able to access these accounts and to close them and receive the proceeds himself.

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. 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, pursuant to Article 20 of the Rules, the CRT may carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he 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
31 August 2005