

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Alfred Dube

in re Accounts of Bartolomé Terradas¹
and
Account of Willy Götting
(Power of Attorney Holder Else Götting-Roth)²

Claim Numbers: 203000/MG; 203001/MG; 203002/MG; 203003/MG; 601067/MG^{3, 4, 5}

This Certified Denial is based on the claims of Alfred Dube, formerly Dub, (the “Claimant”) to accounts of Rudolf Berg, Elsa Berg, née Roth, Berta Guttwillig, née Roth, Ernst Dub, Melanie Dub, née Guttwillig, Franz Guttwillig and Hubert Guttwillig. The CRT did not locate an account belonging to Rudolf Berg, Elsa Berg, née Roth, Berta Guttwillig, née Roth, Ernst Dub, Melanie Dub, née Guttwillig, Franz Guttwillig or Hubert Guttwillig in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Bartolomé Terradas is indicated as owning three accounts and holding power of attorney over three accounts of Berthe Roth-Vitrey. Berthe Roth-Vitrey is indicated as owning three accounts and holding power of attorney over the accounts of Bartolomé Terradas. Moreover, Paul Roth is indicated as holding power of attorney over the accounts of Bartolomé Terradas and the accounts of Berthe Roth-Vitrey. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only three accounts owned by Bartolomé Terradas, one of which was initially owned by Berthe Roth-Vitrey and subsequently transferred to the ownership of Bartolomé Terradas. The CRT has also concluded that the Bank’s records evidence that Paul Roth held power of attorney only over the one account initially owned by Berthe Roth-Vitrey.

² In an effort to locate any and all accounts that might have belonged to the Claimant’s relatives, the CRT has reviewed and analyzed all accounts whose owners’ or power of attorney holders’ names are substantially similar to that of the Claimant’s relatives, 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.

³ The Claimant submitted a claim, numbered B-00161, on 6 October 1997, 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 601067.

⁴ According to Article 37 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 five claims of the Claimant in one proceeding.

⁵ The Claimant submitted Initial Questionnaires with the Court in 1999 and Claim Forms to the CRT. The CRT is treating the Initial Questionnaires and the Claim Forms under the consolidated Claim Numbers 203000, 203001, 203002 and 203003.

(“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”). This Denial is to the published accounts of Bartolomé Terradas (“Account Owner 1”), one of which was initially held by Berthe Roth-Vitrey (“Account Owner 2”), at the [REDACTED] (the “Bank”), and to the published account of Willy Götting (“Account Owner 3”) at the Bank.

All denials are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form asserting that his grandmother, Berta Guttwillig, née Roth, who was born on 7 September 1867 in Pilsen, Czechoslovakia (now Czech Republic), and was married to Hubert Guttwillig, owned a Swiss bank account. The Claimant stated that his grandmother, who was Jewish, owned several businesses in Pilsen, where she resided until 1942. According to the Claimant, in 1942 his grandmother was deported to Theresienstadt, where she perished on 25 May 1942.

The Claimant also submitted a Claim Form asserting that his maternal great-aunt, Elsa Berg, née Roth, who was married to Rudolf Berg, owned a Swiss bank account. According to the Claimant, his great-aunt resided, until 1941, in Prague, Czechoslovakia (now Czech Republic), where the Claimant’s great-uncle worked as a supplier of hops for the beer industry. The Claimant further stated that his great-aunt, who was Jewish, was deported to the ghetto in Lodz, Poland, where she perished in 1944. The Claimant indicated that he was born in Pilsen on 3 May 1923.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and a HCPO claim form in 1997, asserting his entitlement to a Swiss bank account owned by Elsa Berg, née Roth, and Berta Guttwillig, née Roth.

The Claimant submitted documents in support of his application, including: (1) his grandmother’s birth certificate; and (2) his own birth certificate.

Information Available in the Bank’s Records

The CRT notes that the Claimant submitted a claim to an account belonging to his relatives, Berta Guttwillig, née Roth, and Elsa Berg, née Roth. The auditors who carried out the ICEP Investigation reported three accounts belonging to an account owner, of which one was originally held by an account owner whose name is substantially similar to that provided by the Claimant; and one account whose power of attorney holder’s name is 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.

Accounts 5025224, 5025225 and 5032084

The Bank's records indicate that Account Owner 1 was Bartolomé Terradas. The Bank's records also indicate Account Owner 1's city of residence. In addition, the Bank's records indicate that Account Owner 2 was Berthe Roth-Vitrey, who was the original owner of one of the accounts at issue. Moreover, the Bank's records indicate Account Owner 2's two cities of residence, her nationality and the name of her spouse. Furthermore, the Bank's records indicate that Paul Roth held power of attorney over one of the accounts. Finally, the Bank's records indicate the dates of opening and closing of some of the accounts at issue.

Account 5024689

The Bank's records indicate that Account Owner 3 was Willy Götting, who resided in Hildburghausen, Germany, and that the Power of Attorney Holder was Else Götting-Roth. The Bank's records also indicate Account Owner 3's street addresses, the Power of Attorney Holder's city and country of residence, the Power of Attorney Holder's maiden name, the name of another person who held power of attorney over the account, and the name of Account Owner 3's child. Furthermore, the Bank's records indicate the dates on which Account Owner 3 signed the power of attorney forms. Finally, the Bank's records contain the signatures of Account Owner 3, the Power of Attorney Holder, and the other person who held power of attorney over the account.

The CRT's Analysis

Admissibility of the Claims

The CRT has determined that the claims are admissible according to Article 18 of the Rules.

Identification of the Account Owners

As for Accounts 5025224, 5025225 and 5032084, the CRT concludes that the Claimant has not identified Account Owner 2 as his relative. Although the name of his grandmother 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 grandmother was married to Hubert Gutwillig. In contrast, the Bank's records show that Account Owner 2 was married to a different person. Furthermore, the Claimant stated that his grandmother resided in Czechoslovakia, and had Czech nationality. In contrast, the Bank's records show that Account Owner 1 resided in a different country, and was of a different nationality. Moreover, the CRT notes that the Claimant did not identify Account Owner 2's hyphenated last name, Vitrey. The CRT also notes that the Claimant did not identify Account Owner 1 and Power of Attorney Holder Paul Roth. Consequently, the CRT is unable to conclude that Account Owner 2 and the Claimant's grandmother are the same person.

As for Account 5024689, the CRT concludes that the Claimant has not identified Power of Attorney Holder Else Götting-Roth as his relative. Although the name of his great-aunt is substantially 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 great-aunt's married name was Berg. In contrast, the Bank's records show that the Power of Attorney Holder had a different married name. Furthermore, the Claimant stated that his great-aunt resided in Czechoslovakia. In contrast, the Bank's records show that the Power of Attorney Holder resided in a different country. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's great-aunt are the same person.

In addition, the CRT notes that the Claimant did not identify Account Owner 3 as his relative, and 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 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 3, 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 Account Owner 3 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 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 claims 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
21 September 2005