

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Accounts of Joachim Tischler

Claim Numbers: 600016/MC¹

This Certified Denial is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Joachim Tischler and Bernhard Tischler.² This Certified Denial is to the unpublished accounts of Joachim Tischler (the “Account Owner”), over which [REDACTED], née [REDACTED], (the “Power of Attorney Holder”) held power of attorney, at the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, Joachim Tischler, and the Power of Attorney Holder as his mother, [REDACTED], née [REDACTED]. The Claimant stated that his father was born on 4 May 1885 in Przemyśl, Poland and married the Claimant’s mother on 26 February 1909 in Vienna, Austria. The Claimant stated that his parents, who were Jewish, resided at Georg Siegel Gasse 8 in Vienna IX. The Claimant explained that his father was an importer of coffee, tea, sardines, and cooking oil in Vienna and that, after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), his business was confiscated by the Nazi regime. The Claimant stated that his parents fled Austria in 1938 to London, England, and then moved to New York, the United States, in late 1939 or in early 1940.

¹ The Claimant submitted a claim, numbered B-00214, on 15 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 600016.

² In a determination dated 17 January 2006, the CRT informed the Claimant that no accounts belonging to Bernhard Tischler, Curt Alfred Tischler, Hans Tischler, Samuel Tischler, Sally Tischler, Gretchen Tischler, or Elisabet Tischler were located in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“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”).

In support of his claim, the Claimant submitted his letter to the HCPO, dated 15 August 2000, in which he indicated that he had an account in the Central London branch of Barclay's Bank, which he closed before sailing to New York on 20 November 1938:

...I did have an account at the Central-London Branch of Barclay's Bank, probably its main branch, in 1938. I closed this account without any difficulty, and I do not know what kind of account it was, before sailing to New York on Nov. 20, 1938. I know that I arrived in the U.S. with more than \$ 10,000. How much more I do not remember.

In this letter, the Claimant also confirmed that his parents arrived in London, where they had an account:

My parents, Joachim and [REDACTED], arrived in London after my departure. I believe, but am not absolutely certain, that they opened their account (they used to have joint accounts) at Barclay's Bank and perhaps also at another bank, probably amounting to more than \$ 10,000. They left London for New York either in late 1939 or in 1940, and they never said anything about having had any difficulty in closing their account or accounts in England.... I therefore believe that your search about my immediate family's accounts in London will not unearth anything of value.

The Claimant also submitted his birth certificate, indicating his parents were Joachim and [REDACTED], née [REDACTED], from Vienna.

The Claimant indicated that he was born on 18 January 1915 in Vienna.

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 Joachim Tischler during their investigation of the Bank. The Bank's documents were obtained from the Bank by the HCPO on the Claimant's behalf and were forwarded to the CRT.

These documents include two letters from the Bank to the HCPO in response to their inquiries about accounts belonging to the Claimant's relatives, and accompanying attachments.

In a letter dated 15 December 1999, the Bank informed the HCPO that it had identified a customer relationship between the Bank and Joachim Tischler under the number 36222. The letter enclosed documents pertaining to the customer relationship, including a customer card, two power of attorney forms, forms detailing the rules for custody accounts and confirming the deposit of securities, and a list of changes to numbered accounts. According to these records, the Account Owner was Joachim Tischler, who resided at Georg Sieglgasse 8 in Vienna IX, Austria.

According to the customer card, the Account Owner held one custody account, a demand deposit account, and a demand deposit account numbered 3622a that was denominated in British Pound Sterling.

The records show that the demand deposit account numbered 36222a denominated in British Pound Sterling was opened on 1 July 1931, and that on that date, the Account Owner granted power of attorney over the account to his wife, *Frau* (Mrs.) [REDACTED]. According to a note on the power of attorney form, this demand deposit account was closed on 17 October 1935.

According to the records, the Account Owner also held a custody account under the number 36222 that was opened on 24 March 1933, on which date the Account Owner deposited three various securities ("*Diverse Wertpapiere*") into it. Two of the securities were denominated in Swiss Francs, and one was denominated in British Pound Sterling. On 2 March 1936, the Account Owner completed another form granting power of attorney over his accounts, including the power to use the funds in the accounts for her own purposes, to his wife, [REDACTED]. On that date (2 March 1936), the Account Owner also deposited Austrian bonds, denominated in Swiss Francs, into the custody account. A note on the customer card indicates that rules regarding custody accounts were sent to the Account Owner ("*Depotreglement gesandt*") on 24 March 1933 and on 24 February 1936. According to a handwritten notation on the card, this custody account was closed on 5 January 1938 ("*ex. 5.1.1938*").

The CRT notes that the Bank's records do not show when the demand deposit account denominated in Swiss Francs was opened. A note on the power of attorney form dated 2 March 1936 shows that this demand deposit account was closed on 7 January 1939.

In a letter dated 19 September 2000 from the Bank to the HCPO, the Bank informed the HCPO that it had uncovered other documents evidencing an account owned by Joachim Tischler, and enclosed the relevant documents, which include a customer card and a list of changes to numbered accounts. According to these documents, Joachim Tischler owned a custody account numbered 61901 that was closed on 31 March 1938 via a transfer to Barclays Bank in London. The list of changes to numbered accounts includes the name of Joachim Tischler and shows that his account was transferred to Barclays Bank.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Joachim Tischler, numbered 2754. These documents indicate that Joachim Tischler was born on 4 May 1885, was married to [REDACTED], née [REDACTED], and resided at Georg Siglgasse 8, in Vienna IX. These records include a letter dated 30 December 1938 from the lawyers Dr. Bruno Erhartt and Dr. Wilhelm Risch, which states that Joachim and [REDACTED] emigrated from Germany in "October of last year" ("*Herr Joachim Tischler... und dessen Gattin, Frau [REDACTED] sind aus Deutschland im October l.J. ausgewandert...*"] and that, as of the date

of the letter, Joachim Tischler was in London, England [“... *ich frage mich daher unter einem bei Herrn Tischler, welcher derzeit in London weilt, an.*”].³

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the power of attorney holder. The Claimant’s parents’ names and street address match the unpublished names and street address of the Account Owner and the power of attorney holder contained in the Bank’s records. The CRT notes that the Bank’s records evidencing an account were obtained by the Bank by the HCPO on the Claimant’s behalf.

The CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, that his business was confiscated by the Nazi regime, and that he fled Austria in 1938.

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 the Claimant’s father. These documents include the Claimant’s birth certificate, which confirms that Joachim Tischler was the Claimant’s father.

The Issue of Who Received the Proceeds

In this case, the Account Owner held four accounts. With regard to the demand deposit account numbered 36222a and denominated in Pound Sterling, the Bank’s records show that this account was closed on 17 October 1935. With regard to the custody account numbered 36222, the Bank’s records show that this account was closed on 5 January 1938. Given that these accounts were both closed before the *Anschluss*, the CRT concludes that the Account Owner received the proceeds of these accounts.

³ The CRT notes that the German abbreviation “*L.J.*” stands for “*letztes Jahr*” *i.e.*, last year. Thus, this letter would indicate that Joachim Tischler emigrated to England in 1937. The CRT notes, however, that the letter was dated 30 December 1938. Thus, the writer may have meant 1938 when referring to “last year.” According to the Claimant, Joachim Tischler did not arrived in England until after 20 November 1938. In any case, the letter clearly indicates that Joachim Tischler had departed Austria in October 1938 at the latest and that he was in London as of 30 December 1938, at the latest.

With regard to the numbered custody account numbered 61901, the Bank's records indicate that the proceeds of this account were transferred to Barclays Bank on 31 March 1938 and that the account was subsequently closed. Given that the Account Owner later fled to England, and given that the Claimant specifically stated that his parents held an account at Barclays Bank in London, the CRT concludes that the Account Owner transferred the proceeds of this account to another account belonging to him at Barclays Bank and received the proceeds himself.

With regard to the second demand deposit account held under the numbered relationship of 36222, the Bank's records show that it was closed on 7 January 1939. According to information provided by the Claimant and contained in the files pertaining to Joachim Tischler's 1938 Census, at this time, the Account Owner and his wife were in England, and their son (the Claimant) was in the United States. The CRT notes that, as reflected in the Bank's records, the Account Owner transferred other assets belonging to him at the Bank to an account belonging to him at Barclays Bank in England. Given that the Account Owner transferred other assets from the Bank to an account belonging to him in England, that the Account Owner and his family were in England at the time this account was closed, that the Claimant stated that his parents held an account at Barclays Bank and were able to access their assets, the CRT concludes that the Account Owner closed this account and received the proceeds himself.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the Claimant may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
17 December 2010