

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to the Estate of Claimant [REDACTED 1]<sup>1</sup>  
represented by [REDACTED 3]

to Claimant [REDACTED 2]

and to Claimant [REDACTED 3]

**in re Account of *Lazar Weiss & Co.***

Claim Numbers: 220370/MC; 220373/MC;<sup>2</sup> 220377/MC; 221235/MC;<sup>3</sup> 221236/MC<sup>4</sup>

This Certified Denial is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Moritz Weiss; the claim of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) to the account of Paul Stiassny; and the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together, the “Claimants”) to the accounts of Paul Stiassny and Alfred Eisinger. This Denial is to the account of *Lazar Weiss & Co.* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).<sup>5</sup>

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<sup>1</sup> The CRT notes that [REDACTED 1] (“Claimant [REDACTED 1]”) passed away on 10 May 2003.

<sup>2</sup> In a separate decision, the account of Dora Silberman was awarded to [REDACTED 1] (“Claimant [REDACTED 1]”). See *In re Account of Dora Silberman* (approved on 31 December 2002). In another decision, the CRT treated Claimant [REDACTED 1]’s claim to the accounts of Rosa Weiss. See *In re Accounts of Rosa Weiss* (approved on 4 June 2007). In addition to the claims addressed in this decision, Claimant [REDACTED 1] submitted four additional claims, numbered 220371, 220372, 220374 and 220376. In separate decisions, the CRT treated claims numbered 220372, 220374, and 220376 to the accounts of Josef Weiss, Jozef Spira and Paul Haberfeld. See *In re Accounts of Josef Weiss* (approved on 4 June 2007); *In re Account of Jozef Spira* (approved on 13 July 2004); and *In re Account of Paul Haberfeld* (approved on 4 June 2007). In another decision, dated 24 September 2007, the CRT treated Claimant [REDACTED 1]’s claim numbered 220371 to the accounts of Ignatz Weiss, Nathan Weiss, Amalia Weiss and Theresie Weiss.

<sup>3</sup> In another decision, the CRT treated the claim of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”), to the accounts of Paul Stiassny. See *In re Accounts of Paul Stiassny* (approved on 4 August 2008). Claimant [REDACTED 3] also submitted a claim, numbered 220375, to the account of Paul Haberfeld. In a separate decision, the CRT treated Claimant [REDACTED 3]’s claim to the account of Paul Haberfeld. See *In re Account of Paul Haberfeld* (approved on 4 August 2008).

<sup>4</sup> In a separate decision, the CRT treated the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”), to the accounts of Paul Stiassny and Alfred Eisinger. See *In re Accounts of Paul Stiassny and Alfred Eisinger* (approved on 14 September 2007).

<sup>5</sup> 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”), the owner of the account treated in this decision is listed as “Weiss, Moritz, *Nachlass* (Vienna, Austria).” The CRT notes that the German word “*Nachlass*,” which in English means “estate” or “inheritance,” indicates that Moritz Weiss was deceased. Further, upon careful review, the CRT has determined that the Bank’s records indicate that the

All denials are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

### **Information Provided by the Claimants**

Claimant [REDACTED 1] and Claimant [REDACTED 2] indicated that they are the parents of Claimant [REDACTED 3]. The Claimants submitted similar Claim Forms identifying the owner of the Account Owner as Moritz (Moses) Aron Weiss (Weisz), the brother of Claimant [REDACTED 1]'s maternal grandmother, [REDACTED], née [REDACTED]. The Claimants stated that Moritz Weiss was born on 1 October 1864 in Myjava, Austro-Hungary (today Slovakia), to [REDACTED] and [REDACTED]. The Claimants explained that Moritz Weiss, who was Jewish, was married to [REDACTED] on 21 July 1891 in Ottakring, Vienna, Austria, and that the couple had a daughter, [REDACTED], née [REDACTED], who was born on 6 July 1903 in Lucerne, Switzerland. In a telephone conversation with the CRT, Claimant [REDACTED 3] stated that Moritz Weiss' parents owned a large textile factory in Austro-Hungary, probably in Vienna, where Moritz Weiss probably also worked. Claimant [REDACTED 3] also stated that Moritz Weiss probably lived in Vienna. Claimant [REDACTED 3] stated that she did not know the date of Moritz Weiss' death. The Claimants did not provide any additional information about the fate of Moritz Weiss or his wife. However, the Claimants indicated that Moritz Weiss' daughter, [REDACTED], fled Vienna after the incorporation of Austria into the Reich in 1938 (the "Anschluss").

The Claimants submitted copies of documents in support of their claims, including:

- 1) their relative's birth certificate, which indicates that Moses Aron Weiss was born in Myjava on 1 October 1864 to [REDACTED] and [REDACTED];
- 2) Moses Aron Weiss' marriage certificate, which indicates that he married [REDACTED] on 21 July 1891 in Ottakring;
- 3) Claimant [REDACTED 1]'s grandmother's marriage certificate, which indicates that [REDACTED], née [REDACTED], was the daughter of [REDACTED] and [REDACTED];
- 4) Claimant [REDACTED 1]'s mother's birth certificate, which indicates that [REDACTED] was the daughter of [REDACTED], née [REDACTED];
- 5) Claimant [REDACTED 1]'s birth certificate, which indicates that [REDACTED 1] is the son of [REDACTED]; and
- 6) Claimant [REDACTED 3]'s birth certificate, which indicates that [REDACTED 3] is the daughter of [REDACTED 1] and [REDACTED 2].

Claimant [REDACTED 1] indicated that he was born on 28 May 1921 in Piestany, Czechoslovakia, (today Slovakia); Claimant [REDACTED 2] indicated that she was born on 7 May 1922 in Vistuk, Czechoslovakia (today Slovakia); and Claimant [REDACTED 3] indicated that she was born on 26 February 1956 in Haifa, Israel.

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account owner was actually *Lazar Weiss & Co.*, a firm located in Vienna, which was owned by Moritz Weiss, who died in 1934.

## Information Available in the Bank's Records

According to the auditors who investigated this Bank pursuant to instructions from the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), the records pertaining to this account came from the Bank's inheritance files. These records consist of a printout from the Bank's database as well as correspondence between the Bank and attorney Dr. Paul Burkhart-Schenk of Vienna, Austria, dated between 12 and 23 April 1934. According to these records, the Account Owner was the company *Lazar Weiss & Co*, located at Bauernmarkt 11 in Vienna, which was solely owned by Moritz Weiss, who passed away on 12 February 1934.

The CRT notes that none of the Bank's records refers to a specific account held by the company. However, there is a handwritten notation on the letter dated 12 April 1934, apparently written by a Bank employee, which notes the existence of an account, the type of which is not specified, which had a balance of 20.15 Swiss Francs ("SF") as of 12 April 1934.

According to the letter of 12 April 1934 from Dr. Burkhart-Schenk to the Bank, Dr. Burkhart-Schenk was appointed executor (*Verlassenschaftskurator*) of the estate of the late Moritz Weiss on 10 April 1934 by the Leopoldstadt district court in Vienna. This letter states that, in the absence of any business partner authorized to represent the Account Owner following Moritz Weiss' death, on 11 April 1934, the Leopoldstadt district court also appointed Dr. Burkhart-Schenk to represent the company and authorized him to appoint one or more company representatives. Finally, in this letter, Dr. Burkhart-Schenk wrote that he had appointed Mr. Hans Hahn-Mayer as attorney to legally represent (*Einzelprokurist*) of the company, and that he was also registering Mr. Hahn-Mayer with the official Commercial Register in connection with the company.

In a letter dated 16 April 1934, the Bank requested from Dr. Burkhart-Schenk originals or certified copies of the court rulings and commercial registries evidencing Dr. Burkhart-Schenk's and Mr. Hahn-Mayer's authority to act for the company, as well as signature samples.

In a letter dated 18 April 1934 from Dr. Burkhart-Schenk to the Bank, Dr. Burkhart-Schenk stated that he was enclosing signature samples and a certificate from the Vienna commercial court dated 14 April 1934, showing his appointment as executor of Moritz Weiss' estate and as representative of the Account Owner, and showing the appointment of Mr. Hahn-Mayer as representative of the Account Owner.<sup>6</sup>

In a letter dated 20 April 1934, the Bank acknowledged receipt of Dr. Burkhart-Schenk's previous letter and the documents enclosed, and requested an additional signature sample from Dr. Burkhart-Schenk, due to noticeable differences between the signature samples he provided and the signatures on his letters, which may have been signed on his behalf by a colleague. In a final letter to the Bank, dated 23 April 1934, Dr. Burkhart-Schenk stated that someone else had signed the previous letter on his behalf, and noted that he enclosed additional signature samples in his own hand.

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<sup>6</sup> The CRT notes that the court documents and signature samples mentioned in the letter are not included in the documents obtained by the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the instructions of ICEP (the "ICEP Investigation").

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account, (“Voluntary Assistance”). The Bank provided the CRT with an additional letter from the Bank to Dr. Burkhart-Schenk, dated 25 April 1934, acknowledging receipt of Dr. Burkhart-Schenk’s letter of 23 April 1934 and requesting that he use the same signature in all his transactions regarding the company’s account.

The Bank’s records do not show when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of this account. 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 find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

## **The CRT’s Analysis**

### Joinder of Claims

According to Article 37(1) of 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 Claimants in one proceeding.

### Identification of the Account Owner

The CRT notes that the Claimants did not identify the company *Lazar, Weiss & Co.* However, the Claimants stated that their relative’s family owned a textile factory, which is consistent with unpublished information in the Bank’s records that the Account Owner was a company owned by Moritz Weiss. Moreover, the Claimants’ relative’s name, city and country of residence match the published name, city and country of residence of the owner of the Account Owner.<sup>7</sup>

In support of their claims, the Claimants submitted documents, including their relative’s birth and marriage certificates, providing independent verification that the person who is claimed to be the owner of the Account Owner had the same name and resided in the same city and country recorded in the Bank’s records as the name and city and country of residence of the owner of the Account Owner.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided different countries of residence or different dates of death than the country of residence and date of death of the owner of the Account Owner.

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<sup>7</sup> The CRT notes that the documents submitted by the Claimants indicate that their relative’s first name was Moses, whereas the Bank’s records indicate that the first name of the owner of the Account Owner was Moritz. However, given that Moritz is a recognized variation of the name Moses (*see* <http://www.jewishencyclopedia.com>, entry under “Names (Personal)”), the CRT determines that this variation is insubstantial and that it does not affect the Claimants’ identification of the owner of the Account Owner.

Taking all these factors into account, the CRT concludes that the Claimants have plausibly identified the owner of the Account Owner.

### Basis for the Denial

In this case, the company *Lazar, Weiss & Co.* held one account of unknown type. The Bank records show that the sole owner of the company, Moritz Weiss, passed away on 12 February 1934, and that within two months, Dr. Burkhart-Schenk, the court-appointed executor of Moritz Weiss' estate, had contacted the Bank to inform it of Mr. Weiss' passing and to provide the Bank with all the necessary documents regarding the company. In his letter to the Bank of 12 April 1934, Dr. Burkhart-Schenk wrote that he had named Hans Hahn-Mayer as attorney to legally represent the company, and that he was also registering Mr. Hahn-Mayer with the official Commercial Register in connection with the company. The CRT notes that, upon registration with the Commercial Register, Mr. Hahn-Mayer was authorized to act fully for the company and to dispose freely over its accounts. Thus, upon Mr. Hahn-Mayer's registration with the Commercial Register, the rights of Moritz Weiss' estate to the company accounts ceased. The CRT notes that the Claimants did not identify Mr. Hahn-Mayer, and that there is no evidence that he was persecuted by the Nazi regime after the *Anschluss* or that he was related to the Claimants. Given that Moritz Weiss died on 12 February 1934, over four years prior to the *Anschluss*, that the court-appointed executor of his estate named Mr. Hahn-Mayer as the legal representative of the company and registered him with the company in the official Commercial Register, and that therefore the rights to any company accounts were transferred to Mr. Hahn-Mayer, and that the Bank was informed of this information, the CRT concludes that there is no evidence that this account belonged to a Victim or Target of Nazi Persecution as of March 1938, the month of the *Anschluss*. Furthermore, given that the Moritz Weiss died four years prior to the *Anschluss*, and that the court-appointed executor of his estate named an attorney to legally represent the company and registered this person with the Commercial Register four years prior to the *Anschluss*, there is no evidence to suggest that Moritz Weiss' heirs were in any way deprived of their rights to any assets of the company during this process. Accordingly, the CRT concludes that no award is appropriate in this case.

### Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimants 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 claims. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimants 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 Claimants 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