

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Aaron Pieck

Claim Number: 213887/MBC¹

Award Amount: 462,800.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished accounts of Aaron Pieck (the “Account Owner”) at the [REDACTED] (the “Bank”). The accounts awarded are from the Total Accounts Database (“TAD”) at the Bank.

All awards 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 Form identifying the Account Owner as her father, Aaron Alfred Pieck, who was born on 16 October 1890 in Spandau (now Berlin), Germany, and was married to [REDACTED], née [REDACTED], on 3 August 1920 in Spandau. The Claimant indicated that her father, who was Jewish, owned a store called *Piecks*, which was located in Spandau, and that he and her mother had two children: the Claimant and his sister, [REDACTED], née [REDACTED]. The Claimant indicated that her father and his family resided in Berlin until 1938, when they fled to England, via Switzerland, to avoid Nazi persecution, and that they subsequently emigrated to Chicago, Illinois, the United States in 1941. According to the Claimant, her father died on 20 June 1960, and her mother died on 15 April 1979, both in San Francisco, California, the United States. The Claimant further indicated that her sister died in 1989 in Israel, and that her sister had four children.

The Claimant indicated that she was born on 23 July 1921 in Berlin.

¹ [REDACTED] (“the Claimant”) submitted two Claim Forms, which were registered under the Claim Numbers 213887 and 214832. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 213887.

The Claimant previously submitted four Initial Questionnaires (“IQs”) to the Court in 1999, in three of which she asserted her entitlement to a Swiss bank account owned by Aaron Pick, and in one of which she asserted her entitlement to a Swiss bank account owned by Henriette Pick, née Kallner.²

Information Available in the Bank’s Record

The Bank’s record consists of a printout from the Bank’s database of accounts blocked under the United States’ Trading with the Enemy Act (the “1941 Freeze”).³ According to this record, the Account Owner was Mr. Aaron Pieck. The Bank’s record indicates that the Account Owner held one demand deposit account, which was blocked in the 1941 Freeze. The balance of the account as of 14 June 1941 was 272.39 United States Dollars (“US \$”). This record does not contain any information about the disposition of the account.

This account was not part of the Account History Database at the CRT, but were identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,⁴ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less or of unknown value and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database, that is within the 36,000 accounts that ICEP determined were “probably or possibly” owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

Information Available at the United States National Archives

Additionally, in the records of the United States National Archives there is a document pertaining to another account held by the Account Owner. This document consists of an internal memorandum of the United States Foreign Funds Control, dated 15 October 1941 and indicates that the Account Owner was a German refugee residing in Chicago, Illinois, the United States. This document further indicates that the Account Owner held a custody account at the Bank, and

² The CRT will treat the claim to this account in a separate determination.

³ During the Second World War, the United States government froze certain foreign assets located in the United States, under the powers of the Trading with the Enemy Act of 1917 (50 U.S.C. App.). On 14 June 1941, President Roosevelt extended freezing controls to cover all of continental Europe (the “1941 Freeze”). Executive Order 8785 Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of All Foreign-Owned Property, and Related Matters (6 Fed. Reg. 2897). See *Plunder & Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report*, SR-44 (United States Government Printing Office, 2000), available at http://www.pcha.gov/PlunderRestitution.html/html/Home_Content.html.

⁴ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

that Account Owner's counsel discussed with the Foreign Funds Control the possibility of obtaining a license authorizing the sale of 6-1/2% *Swedish government Loan of 1930* bonds with a nominal value of 34,000.00 Swedish Crowns ("SEK") that were held in the custody account, but was offered "no encouragement as to the likelihood of obtaining" such a license. This document contains no information about the disposition of the account.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's name and city and country of residence match the unpublished name and city and country of residence of the Account Owner. 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 he resided in Nazi Germany, and that he and his family fled to England to avoid Nazi persecution.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's father. The CRT notes that the Claimant identified unpublished information about the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The CRT notes that the Claimant indicated that she has surviving nieces and nephews who have not submitted claims to the Account Owner's accounts, and who are not represented in her claim.

The Issue of Who Received the Proceeds

The CRT notes that the Account Owner's accounts were frozen in the 1941 Freeze. The CRT notes that the Account Owner emigrated to the United States in 1941, but a memorandum, dated 15 October 1941, indicates that the Account Owner's counsel was offered "no encouragement" as to the possibility of being able to sell securities the Account Owner held in his custody account at the Bank. Thus, there is no evidence that the account was closed to an authorized party.

The CRT notes that although persecutees who had arrived in the United States by 23 February 1942 could, under the provisions of the US Treasury's general licensing system, access their

accounts, there is no documentation on the extent to which eligible persons availed themselves of these provisions.⁵ Furthermore, there is no indication in the Bank's records of such a release of funds.

Absent evidence in the Bank's records and, in this case, in the official records of the State of New York, and given the facts above, and given that this account was frozen under the 1941 Freeze; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner's counsel was offered "no encouragement" as to the possibility of being able to sell securities the Account Owner held in his custody account at the Bank; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

The CRT notes that the Claimant indicated that she has surviving nieces and nephews who would also be entitled to the Account Owner's accounts, but that they have not submitted claims on their own behalf, and are not represented in the Claimant's claim, and the CRT therefore will not address their potential entitlement to the Account Owner's accounts in this decision.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. With respect to the demand deposit account, the Bank's record indicates that the value of the demand deposit account as of 14 June 1941 was US \$272.39, which was equivalent to 1,174.00 Swiss Francs ("SF").⁶ According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the

⁵ With regard to assets frozen under the Trading with the Enemy Act, according to the Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report (December 2000) ("PCHA Report"), no exceptions nor distinctions were made for assets belonging to Holocaust victims. PCHA Report, at 11-12. Furthermore, many Holocaust victims did not recover their frozen assets or the full value of their assets. *Id.* The PCHA Report can be found at <http://www.pcha.gov>. However, bona fide refugees and immigrants were enabled to access their accounts first under GL 42 and GL 42A, which covered persons who had entered the United States by 17 June 1941, and, beginning on 23 February 1942, under GL42 as amended, which covered those persons who had arrived in the United States on or before that date. For a full history of GL42 and 42A, see U.S. Treasury Department, *Documents Pertaining to Foreign Funds Control*, August 16, 1941, General License 42, p. 31; (amended February 23, 1942), *Id.*, March 30, 1942, p. 33.

⁶ The CRT uses official exchange rates when making currency conversions.

amount in the account shall be determined to be SF 2,140.00. The current value of this amount is determined by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules to produce an award amount of SF 26,750.00.

With respect to the custody account, the memorandum of the United States Foreign Funds Control indicates that as of 15 October 1941, the account contained *6-1/2% Swedish government loan of 1930* bonds with a nominal value of SEK 34,000.00, which at the time was equivalent to SF 34,884.00.

According to the Guidelines for the Valuation of Securities, circulated by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the Account Owners are deemed to have lost control over the account. The CRT presumes that the Account Owners, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. Market value shall be awarded if the market value was above the nominal value on the date the Account Owners are deemed to have lost control over the account. Stocks are valued at market value.

In the absence of information about these bonds, the CRT considers them to have been in good standing and trading at 100%, and accordingly values this account at SF 34,884.00. The current value of this amount is determined by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules to produce an amount of SF 436,050.00.

Consequently, the total award amount in this case is SF 462,800.00.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she 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) at banks other than the Bank.

Certification of the Award

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

Claims Resolution Tribunal
24 September 2008