

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2],
also acting on behalf of [REDACTED 3]

in re Account of R. Pollak

Claim Numbers: 224532/MBC; 500073/MBC; 600061/MBC²

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (formerly known as Robert Pollak) (“Claimant [REDACTED 1]”) to the account of [REDACTED],³ and upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Rudolf Pollak.⁴ This Award is to the published account of R. Pollak (the “Account Owner”) at the Zurich branch of the [REDACTED] (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 Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form to the CRT and a claim to the Holocaust Claims Processing Office (“HCPO”), identifying the Account Owner as himself. Claimant [REDACTED 1] stated that his father, [REDACTED], who was born on 28 March 1888 in Piatra Neamt, Romania, was married to [REDACTED] on 14 September 1913 in Galați, Romania.

¹ The grandson of Claimant [REDACTED 1], [REDACTED], supplied the CRT with a death certificate, indicating that Claimant [REDACTED 1] passed away in New York City on 24 October 2002.

² Claimant [REDACTED 1] submitted a claim, numbered BO-1228, on 1 September 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 600061.

³ The CRT will treat the match to this account in a separate decision.

⁴ In a separate decision, the CRT awarded the account of [REDACTED] to Claimant [REDACTED 2]. See *In re Account of [REDACTED] and [REDACTED]* (approved on 3 June 2003).

Claimant [REDACTED 1] stated that his parents, who were Jewish, resided at Thomas Masaryk Street, No. 10, in Bucharest, Romania, and that he was his parents' only child. Claimant [REDACTED 1] indicated that his father was the representative of *Philips*, a Dutch firm based in Eindhoven, the Netherlands, until 1938. According to Claimant [REDACTED 1], his father and his brothers established *Frații Pollak* ("Pollak Brothers"), an electro-technical firm, located at Bratianu Boulevard, No. 24, in Bucharest. Claimant [REDACTED 1] stated that his father also owned *Otel Rapid* (Rapid Steel), a manufacturer of tools made from specialty steels, located at Chitilei Highway in Bucharest, and three movie theaters in Bucharest, including the *Trianon*, the *Marna*, and the *Coliseum*. According to Claimant [REDACTED 1], his father traveled to Western Europe on business at least twice every year, visiting Eindhoven, Amsterdam, and Rotterdam in the Netherlands; Paris and St. Etienne in France; and Geneva, Basel, and Zurich in Switzerland. Claimant [REDACTED 1] stated that his father deposited assets in Switzerland during the period leading up to the Second World War, and that he may have opened an account in his son's (the Claimant's) name.

Claimant [REDACTED 1] indicated that, beginning in September 1941, his parents were confined in the Mogileff, Balta, and Bershad Ghettos in Transnistria, and that he was forced to perform slave labor at various camps in Transnistria, including Mihoreni, Karaklia, and Florești. Claimant [REDACTED 1] stated that his parents survived the War and returned to Bucharest, and that after the War, he and his parents emigrated to New York, New York. Claimant [REDACTED 1] stated that his father died on 31 May 1968 in New York and his mother died on 10 July 1965, also in New York. Claimant [REDACTED 1] indicated that he was born on 25 November 1919 in Bucharest.

In support of his claim, Claimant [REDACTED 1] submitted copies of his birth certificate, which indicates that he was born on 25 November 1919 in Bucharest and that his former name was Robert Pollak; an application for compensation for the family's confinement in the Bershad Ghetto, completed by his mother; a decision of the provincial government in Cologne, Germany, awarding him compensation for deprivation of liberty, and indicating that his name was [REDACTED 1], formerly Pollak; and a petition to the City Court of New York City by Claimant [REDACTED 1], seeking to change his name from Robert B. Pollak to [REDACTED 1]. Claimant [REDACTED 1] also submitted a copy of a letter from the Contact Office for the Search for Dormant Accounts in Swiss Banks, dated 22 May 1997, stating that they had forwarded his claim to every bank in Switzerland and that they had not yet located an account belonging to Claimant [REDACTED 1]'s family.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his maternal grandfather, Rudolf Pollak, who was born on 30 July 1885, in Voislova, Romania, and was married to [REDACTED] in 1913. Claimant [REDACTED 2] stated that his grandmother's maiden name was either [REDACTED] or [REDACTED] and that she was born on 3 March 1893 in Timișoara, Romania.

Claimant [REDACTED 2] stated that his grandfather, who was Jewish, was one of a family of thirteen to fifteen children. Claimant [REDACTED 2] further stated that his grandfather and one

of his brothers opened a chain of hardware/general stores named *Frații Pollak* (“Pollak Brothers”) in Caransebeș, Romania, with branches in other cities. Claimant [REDACTED 2] stated that his grandfather had a representative who traveled to Switzerland to deposit money on his behalf. Claimant [REDACTED 2] stated that his grandparents had two children: [REDACTED], formerly [REDACTED], née [REDACTED] (Claimant [REDACTED 2]’s mother), who was born on 20 April 1916 in Eteika, Yugoslavia; and [REDACTED], who later changed his last name to [REDACTED] and who was born on 27 August 1913. Claimant [REDACTED 2] stated that during the Second World War, he and his mother were forced into hiding in Hungary.

Claimant [REDACTED 2] stated that his grandfather died in the Shaar Menashe Camp located in Israel on 17 December 1951 and that his grandmother died on 3 July 1947 in Caransebeș. Claimant [REDACTED 2] stated that his mother died on 25 December 1975 in Los Angeles, California, and that his uncle, [REDACTED], died on 20 April 1972 in Marseilles, France.

In support of his claim, Claimant [REDACTED 2] submitted a document notarized in Caracas, Venezuela, on 20 August 1954, which indicates that his mother was [REDACTED], formerly [REDACTED], née [REDACTED], and that the family previously resided in Cluj, Romania.

Claimant [REDACTED 2] stated that he was born on 3 March 1936 in Cluj. Claimant [REDACTED 2] is representing his cousin, [REDACTED 3], who is the son of [REDACTED].

Information Available in the Bank’s Records

The Bank’s records consist of printouts from the Bank’s database, account statements, and ledger sheets. According to these records, the Account Owner was *Herr* (Mr.) R. Pollak, who resided in Romania. The Bank’s records indicate that the Account Owner held a demand deposit account and that the Account Owner instructed the Bank to hold all mail. According to the Bank’s records, the account was frozen on 6 December 1948 with a balance of 235.00 Swiss Francs (“SF”). The records indicate that on 30 June 1964, the account was charged 135.00 SF in fees for the period 1949 to 1964, by which time it had been assigned the account number 285.679.30U. According to the records, the account was subsequently closed, reopened on 21 May 1965 under account number 533.531.00D. The records indicate that, as of 31 December 1980, the account had a negative balance of SF 28.00, and that it was closed to fees on 16 January 1981. There is no evidence in the Bank’s records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT’s Analysis

Joinder of Claims

According to Article 37(1) 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 three claims of the

Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 2]'s grandfather and Claimant [REDACTED 1]'s first initial, last name, and country of residence match the published first initial, last name, and country of residence of the Account Owner. Claimant [REDACTED 2]'s grandfather's and Claimant [REDACTED 1]'s gender matches the unpublished gender of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his first initial, last name, country of residence, and gender.

In support of his claim, Claimant [REDACTED 1] submitted documents, including his Romanian birth certificate and a New York court document showing the change of name from Robert Pollak to [REDACTED 1], providing independent verification that the person who is claimed to be the Account Owner had the same first initial, last name, gender, and resided in the same country as the person who is recorded in the Bank's records as the Account Owner. In support of his claim, Claimant [REDACTED 2] submitted documents, including an affidavit given in Caracas in 1954, which indicates the spelling of the name Pollak and a link to Romania, supporting the credibility of the information provided by Claimant [REDACTED 2].

The CRT notes that Claimant [REDACTED 1] inquired with the Contact Office for the Search for Dormant Accounts in Swiss Banks in 1997 and filed an HCPO claim in 1998, asserting his entitlement to a Swiss bank account owned by his father, either under his father's name or in his own name, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative or himself, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 1] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

The CRT also notes that Claimant [REDACTED 1] and Claimant [REDACTED 2]'s grandfather are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the Bank's records; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because those claimants provided a different gender and/or country of residence than the gender and country of residence of the Account Owner, the CRT finds that the Claimants have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi

Persecution. Claimant [REDACTED 1] stated that he is Jewish, that his parents were confined to the Moghileff, Balta, and Bershada Ghettos in Transnistria, and that he was forced to perform slave labor. Claimant [REDACTED 2] stated that the Account Owner was Jewish and that he lived in Romania during the Second World War. Claimant [REDACTED 2] also stated that he and his mother were forced into hiding during the War to avoid Nazi persecution.

The Claimants' Relationship to the Account Owner

The Claimants have each plausibly demonstrated that he is related to the Account Owner. Claimant [REDACTED 1] has plausibly demonstrated that he is the Account Owner by submitting specific information and documents, including his birth certificate. There is no information to indicate that the Account Owner has other surviving heirs. Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating the Account Owner was his maternal grandfather. The CRT notes that Claimant [REDACTED 2] submitted a copy of a document notarized in Caracas on 20 August 1954, which indicates that his mother was [REDACTED], formerly [REDACTED], née [REDACTED], which provides independent verification that Claimant [REDACTED 2]'s relatives bore the same family name and resided in the same country as 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 Claimant [REDACTED 2] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has surviving heirs other than Claimant [REDACTED 2] and the party whom he is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed to fees on 16 January 1981.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that he is the Account Owner, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his maternal grandfather, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 6 December 1948 was SF 235.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 160.00, which reflects fees charged to the demand deposit account between 1945 and 6 December 1948. Consequently, the adjusted balance of the account at issue is SF 395.00. 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 amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each of the Claimants has established a plausible relationship to a person with the same first initial, last name, gender, and country of residence as the Account Owner. Accordingly, each of the Claimants is entitled to one-half of the total award amount, to be shared by any parties whom he is representing, in accordance with the Rules.

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 2] is representing his cousin, [REDACTED 3]. Both Claimant [REDACTED 2] and [REDACTED 3] are grandsons of Rudolf Pollak. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] and [REDACTED 3] are each entitled to one-quarter of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 Award

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

Claims Resolution Tribunal
21 September 2005