

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2]

## **in re Accounts of Rudolf Pollak**

Claim Number: 501776/DE

Award Amount: 351,340.25 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Prof. Dr. Rudolf 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 Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as his paternal grandfather, Rudolf Karl Adolf Pollak, who was born on 9 June 1864 in Vienna, Austria and was married to [REDACTED], née [REDACTED], who was born on 4 June 1873 in Frankfurt am Main, Germany. According to the Claimant, his grandfather converted to Roman Catholicism in 1896, but was considered Jewish by Nazi authorities. The Claimant stated that his grandfather worked as a lawyer and a university professor and that he and his wife, (the Claimant’s grandmother) resided at Kirchengasse 48/4 in Vienna VII. The Claimant explained that his grandfather’s parents were named [REDACTED] and [REDACTED], née [REDACTED], and that his grandfather had two sisters and a brother. According to the Claimant, his grandfather had one son, [REDACTED] (later [REDACTED]), the Claimant’s father.

The Claimant indicated that Rudolf Pollak died on 27 February 1939 in Vienna, but that he was not certain of the circumstances of his death; Rudolf Pollak’s wife [REDACTED] was deported on 22 July 1942 to Theresienstadt, where she perished on 8 July 1944.

The Claimant submitted a copy of his father’s baptismal records indicating that [REDACTED] was born on 15 December 1900 and was the son of Dr. Rudolf Karl Adolf Pollack, who was born on 9 June 1864 in Vienna, and [REDACTED], who was born on 4 June 1873 in Frankfurt am Main. The document further indicates that [REDACTED] was later adopted by relatives in order

to receive the aristocratic title “[REDACTED]” which he passed on to his children. The CRT notes that the *Jewish Encyclopedia* contains information on the Borckenau-Pollak family.<sup>1</sup>

The Claimant also submitted a certificate regarding the estate of his late father, Dr. phil. [REDACTED]. This document indicates that his father was born on 15 December 1900 and died 22 May 1957 in Zurich, Switzerland, that he had divorced his wife, [REDACTED], née [REDACTED], and that his heirs were his sons from that marriage: [REDACTED 1], born 15 May 1947, and [REDACTED 2], born 26 October 1949.

The Claimant indicated that he was born on 15 May 1947 in Marburg, Germany. The Claimant is representing his brother, [REDACTED 2], who was born on 26 January 1950 in Bad Nauheim, Germany.

### **Information Available in the Bank’s Records**

The Bank’s record consists of a customer card. According to this record, the Account Owner was Prof. Dr. Rudolf Pollak who resided in Vienna, Austria. The Bank’s record indicates that the Account Owner held one demand deposit account, numbered 7938, and one custody account, numbered 30628.

According to the Bank's record, the demand deposit account was closed on 30 March 1938 and the custody account was closed on 22 December 1938. The amount in the accounts on their dates of closure is unknown. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about the Account Owner’s accounts (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of an identification card “*Leitkarte*” and valuations cards “*Depotvalorenkarten*” for each individual security held within the custody account.

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<sup>1</sup> According to an on-line article written for the website Jewish Encyclopedia by Isidore Singer and Emil Jellinek, Moriz Pollak, Ritter von Borckenau, was an Austrian financier who was born in Vienna on 24 December 1827 and died there on 20 August 1907. Singer and Jellinek write:

After leaving the gymnasium of his native city, at the age of twenty-two, he [Moriz Pollak] took charge of his father's wholesale leather business, and soon succeeded in extending his export trade to France and Germany. In 1857 he was elected to the municipal council of Vienna, and took an active part in the relief and construction works in the year of the great flood (1862). Soon afterward he took charge of the budget of the city of Vienna, acting as auditor until his resignation in 1885. In 1867 he was sent by the city of Vienna as one of the delegates on the occasion of the coronation of the King of Hungary at Budapest, and in 1873 he was made chairman of the executive committee of the Vienna Exposition. He entered the Niederösterreichische Escomptebank as examiner, and was director-general and vice-president from 1885 to 1898, also officiating as deputy of the Vienna chamber of commerce, director of the Wiener Kaufmannshalle, and examiner of the Austro-Hungarian bank. Pollak took a very active part in the affairs of the Jewish community, filling various offices, including finally that of president from May 4, 1884, to Dec. 27, 1885. Besides many other decorations he received the cross of the Legion of Honor, in recognition of his services at the Paris Exposition of 1878; five years before, for his services in connection with the Exposition of Vienna, he had received from the Austrian emperor the patent of nobility with the title “Von Borckenau.” See <http://www.jewishencyclopedia.com/view.jsp?artid=416&letter=P>.

These documents indicate that Prof. Dr. Rudolf Pollak held the following securities:

- *4% Eidgenössische Staatsanleihe von 1933* bonds with a face value of 3,000.00 Swiss Francs (“SF”) which were sold on 16 June 1938;
- *4% British Funding Loan 1960/1990* bonds with a face value of 600.00 British Pound (“£”) which were transferred to *Wiener Bankverein, Wien* on 28 June 1938;
- *3½% British War Loan* bonds with a face value of £100.00 which were transferred to the *Wiener Bankverein, Wien* on 28 June 1938;
- *4½% Bons du Tresor Français von 1933/1943* bonds with a face value of 1,000.00 French Francs (“FF”) which were transferred to the *Länderbank, Paris* on 21 June 1938;
- *4½% Französische Rente von 1932 Tranche A* bonds with a face value of FF 450.00 which were transferred to the *Länderbank, Paris* on 21 June 1938;
- *5% Oesterreichische garantierte Konversionsanleihe von 1934/1959 Oesterreichische Tranche* bonds with a face value of 200 Austrian Schillings (“AS”) which were transferred to the *Oesterreichische Creditanstalt Wien* on 20 December 1938;
- *4½% Oesterreichische garantierte Konversionsanleihe von 1934/1959 Englische Tranche* bonds with a face value of £200.00 which were transferred to the *Oesterreichische Creditanstalt Wien* on 6 August 1938;
- *25 shares of Oblig. Var. Comp. des Chemins de Fer Danube-Save-Adriatique Wien 1923*, which were transferred to the *Wiener Bankverein, Wien* on 28 June 1938;
- *4% Pfdbr. Mährische Hypotheken-und Landeskulturbank, Brünn* bonds with a face value of 10,000.00 Czech crowns (“KC”) which were sold on 8 August 1938; and
- *4% Komm. Obl. Zemska Banka, Landesbank Des Königreiches Böhmen, Prag 1898/99* bonds with a face value of KC 8,000.00 which were sold on 8 August 1938.

### **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 Dr. Rudolf Pollak, numbered 14488.

According to those records, Dr. Rudolf Pollak was born on 9 June 1864 and was a retired university professor (*Hochschulprofessor*), and held the honorary title *Hofrat*, meaning court counsellor, such that his full title was *Hofrat Professor Dr. Rudolf Pollak*. These documents indicate that Dr. Rudolf Pollak and his wife, [REDACTED], née [REDACTED], who was considered Jewish by the Nazi authorities but self-identified as a Roman Catholic, lived at Kirchengasse 48, Vienna, VII.

According to his asset declaration, in April 1938 Dr. Rudolf Pollak owned 16 types of securities, which included:

- *50 shares of Donau-Save-Adria Prior.*, each with a market value in July 1938, according

to Dr. Pollak's calculations in his 1938 Census record, of SF 18.75, for a total value of 535.00 Reichsmark ("RM"), which was equivalent to SF 939.46;<sup>2</sup>

- *4½% Französische Rente 1932 Tranche A* bonds with a face value of FF 450.00, which were trading at 76.7 percent, for a total value of RM 27.00, which was equivalent to SF 47.41;
- *5% Oesterreichische Konversionsanleihe Oesterreichische Tranche* bonds with a face value of AS 700.00, which were trading at 99.5 percent, for a total value of RM 465.00, which was equivalent to SF 816.54;
- *4½% Oesterreichische Konversionsanleihe Englische Tranche* bonds with a face value of £200.00, which were trading at 54.5 percent, for a total value of RM 1,362.00, which was equivalent to SF 2,391.67;
- *4% Eidgenössische Staatsanleihe 1933* bonds with a face value of SF 3,000.00, which were trading at 106.6 percent, for a total value of RM 1,822.00, which was equivalent to SF 3,199.43;
- *4½% Französische Schatzscheine 1933* bonds with a face value of FF 1,000.00, which were trading at 80.9 percent, for a total value of RM 63.00, which was equivalent to SF 110.63;
- *4% British Funding Loan* bonds with a face value of £600.00, which were trading at 112 percent, for a total value of RM 8,400.00, which was equivalent to SF 14,750.40;
- *3% British War Loan* bonds with a face value of £100.00, which were trading at 101 percent, for a total value of RM 1,262.00, which was equivalent to SF 2,216.07;
- *4% Pfandbriefe Mährische Hypotheken Bank* bonds with a face value of KC 10,000.00, which were trading at 78 percent, for a total value of RM 671.00, which was equivalent to SF 1,178.28; and
- *4% Komm. Obl. Zemska Banka* bonds with a face value of KC 8,000.00, which were trading at 82 percent, for a total value of RM 564.00, which was equivalent to SF 990.38.

The CRT notes that the securities listed above very closely approximate, but do not exactly mirror, the securities listed in the Bank's records.

The records further contain a letter from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or "VVSt."), dated August 1938 and addressed to Dr. Rudolf Pollak, indicating that all foreign assets including securities must be transferred to the Reichsbank. A second letter from this agency dated 27 November 1938 indicates that the VVSt. demanded the proceeds from the required sale of securities. The documents contain letters to this agency from Dr. Rudolf Pollak, indicating that the sale of all of his securities was completed on 27 October 1938, and the proceeds of the sales given to the Reichsbank.

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<sup>2</sup> The CRT notes that the securities valuations contained in the 1938 Census record were made by Dr. Pollak himself and were prepared as of July 1938. Where rates of exchange are included, the CRT uses official exchange rates when making currency conversions.

In an undated letter to the VVSt., Dr. Rudolf Pollak reported that the following securities, among others, were now deposited at the *Oesterreichische Creditanstalt-Wiener Bankverein*, Vienna branch:

- *4½% Oesterreichische garantierte Konversionsanleihe 1934 Englische Tranche* bonds with a face value of £200.00; and
- *50 Oblig. Var. Comp. des Chemins de Fer Danube-Save-Adriatique Wien* shares.

Dr. Pollak further stated in a letter to the VVSt. dated 28 November 1938, that he had sold the following securities and given the proceeds to the Reichsbank, upon the demand of the Reichsbank:

- *[4½%] Französische Rente 1932 Tranche A* bonds with a face value of FF 450.00;
- *[4½ %] Bons du Tresor Français 1933* bonds, with a face value of FF 1,000.00;
- *[4%] Eidgenössische Staatsanleihe 1933* bonds with a face value of SF 3,000.00;
- *[4%] British Funding Loan* bonds with a face value of £600.00;
- *[3½%] British War Loan* bonds with a face value of £100.00;
- *[4%] Pfandbriefe der Mährischen Hypothekenbank* bonds with a face value of KC 10,000.00; and
- *[4%] Komm Obl. Zemska Banka* bonds with a face value of KC 8,000.00.

These records do not indicate that any of these securities were held in Swiss bank accounts.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant's paternal grandfather's name and city and country of residence match the published name and city and country of residence of the Account Owner.

In support of his claim, the Claimant submitted documents, including his father's baptism record, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided different countries of residence or professions than the country of residence and profession of the Account Owner. 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 considered Jewish by the Nazi authorities, and that the Account Owner's wife and direct heir was deported to Theresienstadt,

where she perished. The CRT notes that the Account Owner was required to register his assets pursuant to the 1938 Census.

### 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 paternal grandfather. These documents include the Claimant's father's baptismal papers indicating that the Claimant's father, [REDACTED], is the son of Dr. Rudolf Pollak, and the Claimant's father's estate certificate, indicating that the Claimant is the son of [REDACTED]. There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant is representing.

### The Issue of Who Received the Proceeds

The Bank's records indicate that the demand deposit account was closed on 30 March 1938 and that the custody account was closed on 8 December 1938. Given that the Account Owner lived in Austria after its incorporation into the German Reich in March 1938 (the "Anschluss") and died in 1939; that his wife was deported to Theresienstadt where she perished; that there is evidence in the Bank's records and the 1938 Census records that the Account Owner's securities and other assets were seized by the Nazis; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; 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 and the party he represents. 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 his grandfather, 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.

### 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, pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of

account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was SF 2,140.00.

With respect to the custody account, in the 1938 Census declaration submitted by the Account Owner, the Account Owner indicated the July 1938 value of all of the securities that he held at the Bank, with some discrepancies. The CRT determines that it is unable to rely on the securities valuations declared in the 1938 Census record, as it has no evidence regarding the circumstances of the Account Owner’s declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may have understated his assets’ value, in the belief that this might help him safeguard some of them. In addition, the CRT notes that the types and number of securities listed in the Account Owner’s 1938 Census record vary slightly from the securities listed in the Bank’s records. Accordingly, the CRT will conduct its own valuation of the securities that the Account Owner held at the Bank, as evidenced in the Bank’s records.

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

According to the Bank’s records, Prof. Dr. Rudolf Pollak held the following securities:

- *4% Eidgenössische Staatsanleihe von 1933* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 107.05 percent when sold on 16 June 1938. Since the bonds were of good quality and had market values above the face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 3,211.50;<sup>3</sup>
- *4% British Funding Loan 1960/1990* bonds with a face value of £600.00. These bonds were of good quality and were trading at 113.13 percent when transferred to the *Wiener Bankverein* on 28 June 1938. Since the bonds were of good quality and had market values above the face value, the market value will be used to determine the value of this asset. The total market value of these bonds was £678.75, which was equivalent to SF 14,504.89;<sup>4</sup>
- *3½% British War Loan* bonds with a face value of £100.00. These bonds were of good quality and were trading at 101.75 percent when transferred to the *Wiener Bankverein* on 28 June 1938. Since the bonds were of good quality and had market values above the face value, the market value will be used to determine the value of this asset. The total market value of these bonds was £101.75, which was equivalent to SF 2,174.40;<sup>5</sup>

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<sup>3</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

<sup>4</sup> The market value for this security was obtained from the *Financial Times*, 29 June 1938.

<sup>5</sup> The market value for this security was obtained from the *Financial Times*, 29 June 1938.

- *4½% Bons du Tresor Français from 1933/1943* bonds with a face value of FF 1,000.00. These bonds were of good quality and were trading at 96.78 percent when transferred to the *Länderbank, Paris* on 21 June 1938. Since the bonds were of good quality and had market values below the face value, the face value will be used to determine the value of this asset. Therefore, these bonds shall be valued at their face value of FF 1,000.00, which was equivalent to SF 125.60;<sup>6</sup>
- *4½% Französische Rente von 1932 Tranche A* bonds with a face value of FF 450.00. These bonds were trading at 79.48 percent when transferred to the *Länderbank, Paris* on 21 June 1938. As these bonds were perpetual, they shall be valued at their market value of FF 357.64, which was equivalent to SF 44.92;<sup>7</sup>
- *5% Oesterreichische garantierte Konversionsanleihe von 1934/1959 Oesterreichische Tranche* bonds with a face value of AS 200.00. These bonds were in default and trading at 70 percent when transferred to the *Oesterreichische Creditanstalt- Wien* on 20 December 1938. Therefore, these bonds shall be valued at their market value of AS 140.00, which was equivalent to SF 245.67;<sup>8</sup>
- *4½% Oesterreichische garantierte Konversionsanleihe von 1934/1959 Englische Tranche* bonds with a face value of £200.00. These bonds were in default and trading at 68.63 percent when transferred to the *Oesterreichische Creditanstalt- Wien* on 6 August 1938. Therefore, these bonds shall be valued at their market value of £137.25, which was equivalent to 2,933.03;<sup>9</sup>
- 25 shares of *Oblig. var. Comp. des Chemins de Fer Danube-Save-Adriatique Wien 1923*, which were trading at 15.25 percent when transferred to the *Wiener Bankverein, Wien* on 28 June 1938. Therefore, these securities shall be valued at their market value of SF 3.81;<sup>10</sup>
- *4% Pfdbr. Mährische Hypotheken-und Landeskulturbank, Brünn* bonds with a face value of KC 10,000.00. These bonds were of good quality and were trading at 78 percent when sold on 8 August 1938. Since the bonds were of good quality and had market values below the face value, the face value will be used to determine the value of this asset. Therefore, these bonds shall be valued at their face value of KC 10,000.00, which was equivalent to SF 1,513.00;<sup>11</sup>
- *4% Komm. Obl. Zemska Banka, Landesbank Des Königreiches Böhmen, Prag 1898/99* bonds with a face value of KC 8,000.00. These bonds were of good quality and were trading at 83.63 percent when sold on 8 August 1938. Since the bonds were of good quality and had market values below the face value, the face value will be used to determine the value of this asset. Therefore, these bonds shall be valued at their face value of KC 8,000.00, which was equivalent to SF 1,210.40.<sup>12</sup>

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<sup>6</sup> The market value for this security was obtained from *Le Temps*, 14 June 1938.

<sup>7</sup> The market value for this security was obtained from *Le Temps*, 22 June 1938.

<sup>8</sup> The market value for this security was obtained from like receipts in the same series in the ASA records, Robert Fischel, (# 21003), p. 22.

<sup>9</sup> The market value for this security was obtained from the *Financial Times*, 6 August 1938.

<sup>10</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

<sup>11</sup> The market value for this security was obtained from the *Compass Boehmen und Maehren* 1940, p. 179.

<sup>12</sup> The market value for this security was obtained from the *Compass Boehmen und Maehren* 1940, p. 172.

Therefore, the total value of the custody account in 1938 was SF 25,967.22. Thus, the combined 1945 average value for the demand deposit account and the custody account is SF 28,107.22. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 351,340.25.

#### Division of the Award

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, the Claimant is representing his brother. Accordingly, the Claimant and the represented party are each entitled to one-half of the total award amount.

#### **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 his claim to determine whether there are additional Swiss bank accounts to which he 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  
24 October 2008