

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to Claimant [REDACTED]  
represented by [REDACTED]

**in re Account of Karel Pacovsky  
(Power of Attorney Holder H elena Pacovsk a)**

Claim Number: 216989/MG

This Certified Denial is based on the claim of [REDACTED], n ee [REDACTED], (the “Claimant”) to the published account of H elena Pacovsk a.<sup>1</sup> The CRT did not locate an account belonging to H elena Pacovsk a 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”). This Denial is to the published account of Karel Pacovsky (the “Account Owner”), over which H elena Pacovsk a (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 Form asserting that her mother, H elena Pacovsk a, n ee Winter, who was born on 13 August 1895 in Borova, Bohemia, Czechoslovakia, and was married to Bohumil Pacovsky in Prague, Czechoslovakia, owned a Swiss bank account. The Claimant stated that her mother, who was Jewish, resided between 1926 and 1939 in Prague, and that she

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<sup>1</sup> In 1999, the Claimant submitted an Initial Questionnaire (“IQ”), numbered ENG 0779 144, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 789055.

<sup>2</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”), Bernhard Lewin is indicated as having only one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of three accounts.

was the owner of the companies *B. Pacovsky Co.*, which was located in Prague, and *Jindrich Heisler Co.*, which was located in Chrast U Chrudime, Czechoslovakia. The Claimant further stated that her mother was deported to Theresienstadt and later to Auschwitz, where she perished. The Claimant indicated that she was born on 5 November 1920 in Prague.

The Claimant submitted documents in support of her application, including: (1) letters regarding the assets of her parents; and (2) her own birth certificate, which indicates her mother's maiden name.

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

The CRT notes that the Claimant submitted a claim to an account belonging to her relative, H elena Pacovsk a. The auditors who carried out the ICEP Investigation reported one account whose power of attorney holder's name matches that provided by the Claimant. The account is identified below by its Account Identification Number, which is a number assigned to the account by the ICEP auditors for tracking purposes.

#### Account 5026257

The Bank's records indicate that the Account Owner was Karel Pacovsky and that the Power of Attorney Holder was H elena Pacovsk a, both of whom resided in Prague, Czechoslovakia. The Bank's records also indicate the Power of Attorney Holder's maiden name and the name of the Power of Attorney Holder's husband. Furthermore, the Bank's records indicate the date on which the power of attorney was signed. Finally, the Bank's records contain the Account Owner's and the Power of Attorney Holder's signatures.

### **The CRT's Analysis**

#### Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules.

#### Identification of the Account Owner or the Power of Attorney Holder

The CRT concludes that the Claimant has not identified Power of Attorney Holder H elena Pacovsk a as her relative. Although the name of her mother matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant stated that her mother's maiden name was Winter. In contrast, the Bank's records show that the Power of Attorney Holder had a different maiden name. Moreover, the Claimant stated that her father was [REDACTED]. In contrast, the Bank's records show that the Power of Attorney Holder was married to someone else. Finally, the Claimant did not identify the Account Owner to the account at issue. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's mother are the same person.

In addition, the CRT notes that the Claimant did not identify the Account Owner as her relative, and that under Swiss law, a power of attorney holder is not considered to be the owner of an account. After a power of attorney holder dies, his or her powers in an account no longer exist, and they do not pass to his or her heirs. Therefore, even if the Claimant had identified the Power of Attorney Holder, but not the Account Owner, as her relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the Power of Attorney Holder and the Account Owner were related.

### Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant may appeal this Denial to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision. Appeals should be delivered to the following address: Office of the Special Master, c/o Claims Resolution Tribunal, P.O. Box 9564, 8036 Zurich, Switzerland.

The Claimant should send appeals in writing to the above address and should include all reasons for the appeal. If more than one account has been denied in this Certified Denial, the Claimant should identify the Account Identification Number that forms the basis of the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

### **Scope of the Denial**

The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

### **Certification of the Denial**

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal  
24 December 2004