

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant Gad Golinski

in re Account of Moritz Pakula

Claim Numbers: 203235/WT; 208961/WT¹

This Certified Denial is based upon the claim of Gad Kurt Heinz Golinski (the “Claimant”) to the unpublished account of Moritz Pakula (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All denials are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal uncle, Moritz Pakula, who was born on 6 May 1900 in Gross Wartenberg, Germany (today Sycow, Poland). The Claimant stated that his uncle, who was Jewish, was the son of Leopold Pakula and Dorothea Pakula, née Fiebelsohn, and that he was a cattle dealer who lived at Kletschkauerstrasse 2/4 in Schweidnitz, Germany (today Swidnica, Poland). The Claimant stated that in 1933 his uncle fled Germany to Czechoslovakia, and that subsequently he fled to Lvov, Poland, where he perished on 31 December 1940.

In support of his claim, the Claimant submitted documents, including:

- (1) his mother’s birth certificate, indicating that Rosa Pakula was born on 22 May 1894 to Leopold Pakula and Dorothea Pakula, née Fiebelsohn;

¹ Gad Golinski (the “Claimant”) submitted one additional claim, which is registered under the Claim Number 402214. In a separate decision, the CRT treated the Claimant’s claim to the account of Georg Fischer. See *In re Account of Georg Fischer* (approved on 11 June 2007). In decisions dated 9 October 2007 and 10 January 2008, the CRT informed the Claimant that it did not locate any accounts belonging to Moritz Pakula, Leopold Pakula, Dorothea Pakula, Max Pakula, Gad Kurt Heinz Golinski, Rosa Golinski, Lothar Golinski, Benno Golinski, Rosa Shoshana Golinski, Regina Fisher, Edith Fisher, Lilo Fisher, Norbert Fisher, or Lea Noher 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 decision addresses documents submitted by the Claimant regarding an account held by Moritz Pakula at the Bank.

- (2) his uncle's birth certificate, indicating that Moritz Pakula was born on 6 May 1900 in Gross Wartenberg, and that he was the son of Leopold Pakula and Dorothea Pakula, née Fiebelsohn;
- (3) his mother's marriage certificate, indicating that Rosa Pakula married Benno Golinski on 2 August 1920 in Gross Wartenberg;
- (4) his own birth certificate, indicating that Kurt Heinz Golinski was the son of Benno Golinski and Rosa Golinski, née Pakula, and that he was born on 25 April 1923 in Bernstadt, Germany (today Bierutow, Poland); and
- (5) an affidavit, dated 24 May 1955, sworn by Ernst Noher, which states that the late Moritz Pakula was one of five heirs of his sister, Lea Noher, née Pakula.

The Claimant also submitted correspondence from the Bank regarding an account held by Moritz Pakula, which is described below.

The Claimant indicated that he was born on 25 April 1923 in Bernstadt.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1997, asserting his entitlement to a Swiss bank account owned by Moritz Pakula.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Moritz Pakula during their investigation of the Bank. The Bank's documents were forwarded to the CRT by the Claimant.

The documents submitted by the Claimant include a letter from the Bank in Zurich, dated 16 December 1939 and addressed to Mrs. Margarethe Simenauer (who is not further identified either in the correspondence or by the Claimant) in Essex, England, which states: "We received your letter of the 6th inst., in reply to which we beg to inform you that we received on October 13th 1939 a message from some person in Katowice, whose address is unknown to us, that Mr. Pakula is faring well and that you will soon here from him direct. The present address of Mr. Moritz Pakula I not known to us."

The Claimant also submitted a letter dated 25 August 1954 from an attorney named Max Eichenberger to Rosa Golinski (the Claimant's mother), in which the attorney informed her that a Berlin court had declared Moritz Pakula dead as of 31 December 1940. The attorney wrote that as soon as the declaration became official (following a waiting period for possible appeals), he would submit an application to have the certificate of inheritance for Moritz Pakula issued from the court. The attorney wrote that once he received the certificate of inheritance, he could request that the Bank turn over Moritz Pakula's assets to his heirs.

The Claimant also submitted a letter dated 10 June 1955 from Mr. Eichenberger to Rosa Golinski in which he informed her that he had provided the Bank with the inheritance document issued by the Berlin court, that he received the affidavit from Ernst Noher and that he was in communication with the Bank regarding the release of the funds in the account to the heirs of Moritz Pakula. The Claimant also submitted a letter from the Bank to the Claimant's mother, dated 15 July 1955, in which the Bank informed Rosa Golinski that it had received an inheritance certificate from M. Eichenberger regarding the estate of Moritz Pakula, that on 31 December 1940 Moritz Pakula's account held \$153.90 United States Dollars ("US \$"), and that the Bank was prepared to release the funds to the heirs of the Account Owner with the collective permission of his heirs.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The CRT notes that the Claimant submitted documents, including copies of letters from the Bank, demonstrating that his relative was the Account Owner.

In support of his claim, the Claimant submitted documents, including his uncle's birth certificate, indicating that Moritz Pakula was born on 6 May 1900 in Gross Wartenberg, and that he was the son of Leopold Pakula and Dorothea Pakula, née Fiebelsohn; and correspondence between the Claimant's mother and an attorney relating to the issuance of an certificate for Moritz Pakula's estate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank correspondence and records submitted by the Claimant as the name of the Account Owner.

The CRT notes that there are no other claims to this account.

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, and that he perished in 1940 in Poland. The Claimant also submitted correspondence between his mother and an attorney regarding to the Account Owner's estate, indicating that Moritz Pakula was killed on 31 December 1940 in Lvov in a military action against Jewish refugees.

The CRT notes that a database containing the names of victims of Nazi persecution includes a Page of Testimony submitted by the Claimant's father in 1955, which indicates that Moritz Pakula was born on 6 May 1900 in Gross Wartenberg, that he lived in Schweidnitz, and that he perished in Lvov in 1940. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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 maternal uncle. These documents include his mother's birth certificate, indicating that Rosa Pakula was the daughter of Leopold Pakula and Dorothea Pakula, née Fiebelsohn; his uncle's birth certificate, indicating that Moritz Pakula was the son of Leopold Pakula and Dorothea Pakula, née Fiebelsohn; his mother's marriage certificate, indicating that Rosa Pakula married Benno Golinski; and his own birth certificate, indicating that Kurt Heinz Golinski was the son of Benno Golinski and Rosa Golinski, née Pakula. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The documents submitted by the Claimant indicates that the heirs of Moritz Pakula were in contact with the Bank after the Second World War and that by 15 July 1955, the Bank had received the Account Owner's certificate of inheritance, which was issued by a Berlin court, that it had recognized the power of attorney of the heirs' legal representative, and that it was prepared to release the funds in the account, US \$153.90, with the collective permission of the Account Owner's heirs. The CRT therefore concludes that the heirs of the Account Owner received the proceeds of the account.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the Claimant 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 claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant 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 Claimant 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
30 August 2010