

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Yvonne Byng-Maddick

### **in re Accounts of Ida Pollak**

Claim Number: 500240/GO

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of Yvonne Byng-Maddick, née Bergwein, (the “Claimant”) to the published accounts of Ida Pollak (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).<sup>1</sup>

All awards 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 her maternal great-grandmother, Ida Pollak, née Urbach, who was born in Prague, Czechoslovakia (today the Czech Republic) and was married to Carl Pollak on 19 February 1899 in Prague. The Claimant indicated that her great-grandmother, who was Jewish, resided in Prague and Gablonz, Czechoslovakia (today Jablonec nad Nisou, Czech Republic). The Claimant indicated that her great-grandmother had three children: Franziska, Josef and Rose (the Claimant’s grandmother). The Claimant further indicated that her great-grandmother was a housewife and owned property in Berlin, Germany. The Claimant indicated that her great-grandfather passed away in Prague in 1928, and that her great-grandmother remained in Czechoslovakia until the Second World War. According to the Claimant, her great-grandmother fled from Czechoslovakia to England on 1 April 1939. The Claimant indicated that her great-grandmother subsequently resided in London, England, and in Ilfracombe, England, and that she died on 17 November 1978 in London.

According to the Claimant, her grandmother and her grandmother’s siblings all predeceased her great-grandmother. The Claimant further indicated that her grandmother had one daughter, Lya Dagmar, who was the Claimant’s mother. A family tree provided by the Claimant indicates that

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<sup>1</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”), Ida Pollack is indicated as having resided in Germany. Upon careful review, the CRT has concluded that the Bank’s records are not clear as whether Ida Pollack resided in Germany or Czechoslovakia.

her great-aunt Franziska and great-uncle Josef also had children. The Claimant indicated that she was born on 29 March 1948 in London.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Joseph Heller.<sup>2</sup>

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

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Ida Pollak, who resided in Reichenberg. The Bank's record does not indicate the Account Owner's country of residence, but 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") determined that Germany was the Account Owner's country of residence. The Bank's record indicates that the Account Owner held one demand deposit account, which was closed on 10 October 1934, and one custody account, numbered 49767, which was closed on 15 October 1939.

The amount in the accounts on the dates of their closure is unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

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

#### Identification of the Account Owner

The Claimant's great-grandmother's name and country of residence match the published name and country of residence of the Account Owner. 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") determined that the Account Owner resided in Germany, whereas the Bank's record does not indicate the Account Owner's country of residence. However, the CRT notes that German names were often used for cities located in Czechoslovakia, and that a town named Reichenberg was located in the Sudetenland, which was annexed by Nazi Germany in September 1938. The CRT therefore finds that this discrepancy does not affect the plausibility of the identification in this case. The Claimant indicated that her great-grandmother resided in Gablonec, which is approximately 20 kilometers from Reichenberg (today Liberec), the Account Owner's city of residence.

The Claimant also identified the Account Owner's marital status, which matches unpublished information about the Account Owner as contained in the Bank's record.

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<sup>2</sup> The CRT will treat the claim to this account in a separate determination.

The CRT notes that the name Ida Pollak appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution (“ICEP” or the “ICEP List”).

The CRT notes that the other claims to these accounts were disconfirmed because that claimant provided a different city of residence or a different marital status than the city of residence and marital status 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 Jewish, that she resided in Nazi-controlled Czechoslovakia, and that she fled from Czechoslovakia to England in 1939.

#### 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 great-grandmother. The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant’s claim, the CRT will not treat their potential entitlement to the Account Owner’s accounts in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank’s record. 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 Issue of Who Received the Proceeds

The Bank’s record indicates that the demand deposit account was closed on 10 October 1934, which is before the annexation of the Sudetenland region of Czechoslovakia by Nazi Germany in September 1938. Therefore the CRT concludes that Account Owner had access to the account until the date of its closure and received the proceeds of this account herself.

The Bank’s record indicates that custody account 49767 was closed on 15 October 1939, at which time, according to information provided by the Claimant, the Account Owner was outside Nazi-dominated territory. However, given that the Bank’s record does not indicate to whom the account was closed, that the Account Owner fled her country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in her country of origin and that she may therefore have yielded to Nazi pressure to turn over her accounts to ensure their safety, that the Account Owner and her heirs would not have been able to obtain information about her account after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 her 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 great-grandmother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the custody account.

#### Amount of the Award

For the purposes of this award, the Account Owner held one custody 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 ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). 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 162,500.00.

#### **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).

#### **Certification of the Award**

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

Claims Resolution Tribunal  
12 October 2007