

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
also acting on behalf of [REDACTED 2], [REDACTED 3], and [REDACTED 4]

and to Claimant [REDACTED 5]

in re Account of M. J. Pollak

Claim Numbers: 223314/MBC, 850006/MBC, 850007/MBC¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Margrit Pollak, and the claim of [REDACTED 5], née [REDACTED], (“Claimant [REDACTED 5]”) (together, the “Claimants”) to the account of Margrit Pollak. This Award is to the published account of M. J. Pollak (the “Account Owner”) at the [REDACTED] (the “Bank”).²

¹ Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted seven additional claims which are described in detail below. With respect to Claimant [REDACTED 1]’ claim numbered 223312 to the account of Leo Pollak, the CRT notes that, in a separate decision, the CRT awarded the accounts of Margrit and Leo Pollak to Claimant [REDACTED 1]. See *In re Accounts of Margrit and Leo Pollak* (approved on 25 October 2002). With respect to Claimant [REDACTED 1]’ claim numbered 223313 to the account of Arthur Pollak, the CRT will treat this claim in a separate determination. In a separate decision, the CRT awarded the account of A. Pollak to Claimant [REDACTED 1]. See *In re Account of A. Pollak* (approved on 23 June 2003). With respect to Claimant [REDACTED 1]’ claims to the accounts of Otto Pollak and Friederike Pollak, numbered 223315 and 223319 respectively, the CRT notes that it treated these claims in a separate decision. See *In re Accounts of Otto Pollak, Friederike Pollak (Power of Attorney Holder Otto Pollak), Frieda Pollak and Frida Pollak* (approved on 18 April 2006). With respect to Claimant [REDACTED 1]’ claim numbered 223316 to the account of Ludwig Pollak, the CRT notes that it awarded the accounts of Ludwig Pollak and Julia Pollak to Claimant [REDACTED 1]. See *In re Accounts of Ludwig Pollak and Julia Pollak*. With respect to Claimant [REDACTED 1]’ claim numbered 223317 to the account of Edith Pollak, the CRT notes that it treated this claim in a separate decision. See *In re Accounts of Edith Pollak, E. Pollak and Maria Schön and Wilhelm Schön (Power of Attorney Holder E. Pollak)* (approved on 23 January 2006). Finally, with respect to Claimant [REDACTED 1]’ claim numbered 223318 to the account of Melanie Pollak, the CRT notes that the CRT awarded the account of Melanie Pollak to Claimant [REDACTED 1] in a separate decision. See *In re Account of Melanie Pollak* (approved on 31 December 2003). [REDACTED 5] (“Claimant [REDACTED 5]”) submitted an appeal to an award regarding a different account owned by Margit Pollak that was awarded to Claimant [REDACTED 1]. See *In re Accounts of Margit Pollak and Leo Pollak* (approved on 25 October 2002). The information contained in his appeal was registered by the CRT as a late claim to a paid account and was treated by the Office of Special Master Michael Bradfield. Since the account at issue here was not previously paid, the information provided by Claimant [REDACTED 5] is being considered in the decision here.

² 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”), as

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his great-aunt by marriage, Margit (Margrit, Marguerite, Mariette) Pollak, née Grosz, and Claimant [REDACTED 5] submitted two Claim Forms identifying the Account Owner as her half-sister, Margit (Margrit) Pollak, née Grosz. Claimant [REDACTED 5] indicated that she and Margit Pollak had the same father, [REDACTED]. The Claimants indicated that Margit Pollak was born on 5 July 1896 in Vienna, Austria, and was married to [REDACTED] (who was Claimant [REDACTED 1]'s mother's paternal uncle) on 30 August 1922 in Vienna. The Claimants stated that Margit and [REDACTED] had no children. Claimant [REDACTED 5] stated that [REDACTED] was an engineer, who owned and directed a factory near Paris that produced food supplements and spirits.

According to the Claimants, [REDACTED] and Margit Pollak, who were Jewish, moved to Vincennes, France - which is immediately adjacent to Paris - shortly after their marriage, and moved again to Maisons-Alfort (Seine) - another suburb of Paris, within five kilometers of the Paris city limit - in 1931. Claimant [REDACTED 5] indicated that she stayed with her sister Margit Pollak and brother-in-law [REDACTED] in Maisons-Alfort for several months in 1937. Claimant [REDACTED 1] stated that his great-aunt and great-uncle moved in with [REDACTED]'s parents at 30 Avenue d'Eylau, within Paris proper, in approximately 1940. Claimant [REDACTED 1] also indicated that his great-aunt and great-uncle had connections to Basel, Switzerland.

The Claimants stated that Margit and [REDACTED] were captured by the Nazis after they moved to Paris. The Claimants further stated that Margit and [REDACTED] were deported to Auschwitz-Birkenau, where, according to Claimant [REDACTED 1], Margit Pollak perished in August 1942, and where [REDACTED] perished in November of the same year.

In a telephone conversation with the CRT, Claimant [REDACTED 1] indicated that his great-aunt Margit Pollak had the middle initial J.

In support of his claim, Claimant [REDACTED 1] submitted copies of various documents including:

well as the name M. J. Pollak, the name Margrit Pollak appears twice. The CRT notes that accounts belonging to one of the Account Owners named Margrit Pollak were awarded to Claimant [REDACTED 1]. See *In re Accounts of Margrit and Leo Pollak* (approved on 25 October 2002). With respect to the other Margrit Pollak, upon careful review, the CRT has determined that this is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

- 1) his maternal grandfather's birth certificate, indicating that [REDACTED] was born on 22 August 1880 in Jihlava, Austria-Hungary (now part of the Czech Republic) and that his parents were [REDACTED] and [REDACTED], née [REDACTED];
- 2) his great-uncle's birth certificate, indicating that [REDACTED] was born on 15 August 1882 in Jihlava and that his parents were also [REDACTED] and [REDACTED], née [REDACTED];
- 3) his mother's birth certificate, indicating that [REDACTED] was born on 22 December 1911 in Duba, Austria-Hungary (now part of the Czech Republic) and that her parents were [REDACTED] - who was born on 22 August 1880 - and [REDACTED], née [REDACTED];
- 4) his great-aunt and great-uncle's marriage certificate, dated in Vienna on 30 August 1922, indicating that Margit Pollak, née Grosz, who was born on 5 July 1896 and was the daughter of [REDACTED], was married to [REDACTED], who was born on 15 August 1882 to [REDACTED] and [REDACTED];
- 5) a postcard, dated 1931, addressed to his great-aunt and great-uncle, Margrit and [REDACTED], at an address in Maisons-Alfort (Seine), France;
- 6) a judgment issued by a French court on 12 March 1948, indicating that Margit Grosz, who was the daughter of [REDACTED] and [REDACTED] and who lived at 30 Avenue d'Eylau in Paris, perished at Auschwitz-Birkenau in August 1942;
- 7) a sworn affidavit, signed on 12 and 19 February 1954, relating to his great-uncle's estate, indicating that [REDACTED], who had been married to Marguerite Grosz, perished without issue at Auschwitz-Birkenau in November 1942 and that his heirs included his niece, [REDACTED], the daughter of one of [REDACTED]'s brothers, [REDACTED]; and
- 8) a family book, issued by the French civil authorities, indicating that the Claimant's mother, [REDACTED], who was the child of [REDACTED] and [REDACTED], was married to [REDACTED] on 25 January 1943. The family book further indicates that the Claimant's parents had four children: [REDACTED 1] (the Claimant); [REDACTED 2] and [REDACTED 3] (the Claimant's brothers); and [REDACTED 4] (the Claimant's sister).

In support of her claim, Claimant [REDACTED 5] submitted copies of documents, including:

- (1) her own birth certificate, indicating that [REDACTED 5], who was Jewish, was born on 26 September 1917, and that her father was [REDACTED] and her mother was [REDACTED];
- (2) her own baptism certificate, indicating that [REDACTED 5], who was born on 26 September 1917, was the daughter of [REDACTED], and that she was baptized in 1930;
- (3) an extract from the marriage registry of the Jewish Community of Vienna, indicating that on 30 August 1922 in Vienna-Josefstadt, Ing. [REDACTED] married Margit Grosz; and
- (4) four photographs from 1937 showing Claimant [REDACTED 5] and Margit Pollak together in Maisons-Alfort, France, and in Czechoslovakia.

Claimant [REDACTED 1] indicated that he was born on 25 May 1943 in Antibes, France. Claimant [REDACTED 1] is representing his siblings, [REDACTED 2], who was born on 8 September 1944 in Carmaux, France; [REDACTED 3], who was born on 17 July 1946 in

Boulogne-Billancourt, France; and [REDACTED 4], née [REDACTED], who was born on 21 October 1948 in Boulogne-Billancourt.

Claimant [REDACTED 5] indicated that she was born on 26 September 1917 in Neratovice, Czechoslovakia.

Information Available in the Bank's Record

The Bank's record consists of a list of accounts transferred to another bank on 31 October 1946 after that bank acquired the Bank. According to this record, the Account Owner was M. J. Pollak, who resided in Paris, France. The Bank's record indicates that the Account Owner held an account, numbered 30661, the type of which is not indicated.

The Bank's record does not indicate when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account. 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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owner or his or her 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 1]' great-aunt's initials, surname, and city and country of residence match the published initials, surname, and city and country of residence of the Account Owner; and Claimant [REDACTED 5]'s half-sister's initial, surname, and city and country of residence match the published initial, surname, and city and country of residence of the Account Owner. Claimant [REDACTED 1] also indicated that his great-aunt had connections to the unpublished Swiss city where the account was held.

In support of his claim, Claimant [REDACTED 1] submitted various documents, including his great-aunt's marriage certificate; a 1931 postcard addressed to his great-aunt and great-uncle; a French court judgment relating to the fate of his great-aunt; and a sworn affidavit relating to his great-uncle's estate, providing independent verification that the person who he claimed to be the Account Owner had the same first initial and surname and resided in the same town recorded in

the Bank's record as the initial, surname, and city of residence of the Account Owner. In support of her claim, Claimant [REDACTED 5] submitted an extract from the Vienna Jewish Community marriage registry, providing independent verification that the person who is claimed to be the Account Owner had the same first initial and surname recorded in the Bank's record as the initial and surname of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 15 August 1882 and place of birth was Jilhava, that he was married to Margit, and that he lived in Maisons-Alfort (Seine), France which matches the information about the Account Owner's husband provided by the Claimants. The database further indicates that [REDACTED] was transported from Drancy to Auschwitz on 24 July 1942 and that he perished at Auschwitz on 21 October 1942. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account. Taking all of these factors into consideration, the CRT determines that the Claimants have 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. The Claimants stated that the Account Owner was Jewish, that she resided in Nazi-occupied France, and that she perished at Auschwitz-Birkenau in 1942. Claimant [REDACTED 1] also submitted a French court judgment verifying that the Account Owner perished at Auschwitz-Birkenau. As noted above, a person named [REDACTED], corresponding to the Account Owner's husband, was included in the CRT's database of victims.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]' great-aunt by marriage. These documents include the birth certificates of his grandfather, [REDACTED] and his great-uncle, [REDACTED], indicating that they had the same parents and therefore providing confirmation that they were brothers; his mother's birth certificate, indicating that [REDACTED]'s father was [REDACTED]; his great-aunt and great-uncle's marriage certificate, indicating that Margit Grosz married [REDACTED]; a sworn affidavit relating to [REDACTED]'s estate, indicating that his deceased wife was Marguerite Grosz and that one of his nieces (and heirs) was [REDACTED], the daughter of one of [REDACTED]'s brothers, [REDACTED]; and a family book indicating that Claimant [REDACTED 1] and the parties he represents are all the children of [REDACTED].

The CRT notes that Claimant [REDACTED 1] indicated that he has other surviving relatives, but that because they are not represented in Claimant [REDACTED 1]' claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

Claimant [REDACTED 5] has plausibly demonstrated that she is related to the Account Owner by submitted specific information, demonstrating that the Account Owner was Claimant [REDACTED 5]'s half-sister. The CRT notes that Claimant [REDACTED 5] indicated that the Account Owner may have other surviving relatives, but that because they are not represented in her claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The CRT further notes that Claimant [REDACTED 5] identified information which matches information contained in the Yad Vashem records. The CRT also notes that Claimant [REDACTED 5] submitted her birth certificate, indicating that her father was [REDACTED], which matches the name of the Account Owner's father, as indicated in documents provided by Claimant [REDACTED 1], and this supports Claimant [REDACTED 5]'s claim that she is the half-sister of 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 5] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 5] is related to the Account Owner, as she has asserted in her Claim Forms.

The Issue of Who Received the Proceeds

Given that the Bank's record indicates that the account still existed in 1945, when it was acquired by another Swiss bank; that the Account Owner and her spouse perished in concentration camps in 1942; that there is no record of the payment of the Account Owner's account to her, nor any record of a date of closure of the account; 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 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 Claimant [REDACTED 5]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 5] has plausibly demonstrated that the Account Owner was her half-sister, 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 claimed account.

Further, the CRT notes that Claimant [REDACTED 5], as the Account Owner's half-sister, has a better entitlement to the account than Claimant [REDACTED 1], the Account Owner's great-nephew by marriage.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner’s spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner’s parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant [REDACTED 5] is entitled to the entire award amount. As noted above, Claimant [REDACTED 1] is not entitled to a share in the award.

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
20 December 2007