

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Giulio Polacco

Claim Number: 751282/MBC¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of G. Polacco (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 an ATAG Ernst & Young claim form (“ATAG Form”) identifying the Account Owner as her father, Giulio Polacco, who was born on 16 July 1885, and was married to [REDACTED]. The Claimant stated that her father, who was Jewish, resided at 34 via C. Hajech in Milan, Italy, and that he worked in a company called *Grunstein & Polacco* located at 3 via Olmetto in Milan. The Claimant stated that her father died on 24 February 1944 in Genoa, Italy.

The Claimant submitted a copy of her own birth certificate, issued by the civil state office in Milan (*Ufficio Dello Stato Civile, Comune du Milano*), indicating that [REDACTED] was born in Milan on 24 September 1928, and that her parents were Giulio and [REDACTED] Polacco.

The Claimant indicated that she was born on 24 September 1928 in Milan.

¹ [REDACTED] (the “Claimant”) did not submit a CRT Claim Form. However, in 1998 she submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-BSL-I-90-317-135-506, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 751282.

Information Available in the Bank's Record

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 Giulio Polacco during their investigation of the Bank. The documents evidencing accounts belonging to Giulio Polacco were obtained from archival sources in Switzerland and are further described below.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Giulio Polacco, numbered 179. These records indicate that, on 27 February 1964, the Bank reported a demand deposit account belonging to Giulio Polacco. The amount in the account on this date was 286.00 Swiss Francs ("SF"). The records further indicate that the Bank did not have contact with the Account Owner after the Second World War. The records do not contain any further information about the Account Owner.

According to a document, dated 21 October 1965, the Registration Office for Assets of Missing Foreigners (the "Registration Office") (*Meldestelle für Vermögen verschwundener Ausländer*) requested that the Guardianship Authorities of the city of Zurich entrust the assets to a custodian, as prescribed by the 1962 Federal Decree. The records from the Swiss Federal Archive indicate that Dr. H. Häberlin of Weinfelden, Switzerland, was appointed custodian of the account on 2 December 1966.

The records from the Swiss Federal Archive do not contain information about the disposition of this account. There is no evidence in the records that the Account Owner or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's father's family name matches the published family name of the Account Owner. The Claimant identified the Account Owner's first name, which matches unpublished information about the Account Owner contained in the records of the Swiss Federal Archive.

The CRT notes that the records from the Swiss Federal Archive do not contain any specific information about the Account Owner other than his name.

In support of her claim, the Claimant submitted documents, including her own birth certificate, indicating that the father of [REDACTED] was Giulio Polacco, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the records from the Swiss Federal Archive as the name of the Account Owner.

The CRT notes that the name G. Polacco appears only once on the List of Account Owners Published in 2005 (the “2005 List”).

The CRT notes that the Claimant filed an ATAG Form in 1998, asserting her entitlement to a Swiss bank account owned by Giulio Polacco, prior to the publication of the 2005 List. This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the 2005 List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the 2005 List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

The CRT notes that there are no other claims to this account. 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, and that he lived in Nazi-allied Italy during the Second World War.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant’s father. These documents include her own birth certificate, which indicates that her father was Giulio Polacco. There is no information to indicate that the Account Owner has surviving heirs.

The Issue of Who Received the Proceeds

Given that during the Second World War the Account Owner resided in Nazi-allied Italy country; that he died in 1944 while the Second World War was still ongoing; that the account was reported in the 1962 Survey, which indicates that it existed until at least that time; that there is no record of the payment of the Account Owner’s to him nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his 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 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. 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 father, 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 account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The records from the Swiss Federal Archive indicate that the value of the demand deposit account as of 27 February 1964, was SF 286.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 300.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 586.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

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
30 May 2008