

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by Denis Delcros and Christophe Aubrun

and to Claimant [REDACTED 2]

in re Accounts of Charles Pollacchi, Yvonne Pollacchi, and Louis Pollacchi

Claim Numbers: 218898/GO; 218899/GO; 500328/GO; 500329/GO¹

Award Amount: 1,146,000.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Charles Pollacchi and Yvonne Pollacchi. This Award is to the published and unpublished accounts of Charles Pollacchi (“Account Owner Charles Pollacchi”), Yvonne Pollacchi (“Account Owner Yvonne Pollacchi”), and Louis Pollacchi (“Account Owner Louis Pollacchi”) (together, the “Account Owners”) at the Basel and Zurich branches of the [REDACTED] (the “Bank”).

On 14 May 2002, the Court approved an Award (the “May 2002 Award”) to Claimant [REDACTED 1] for a custody account held by Account Owners Charles Pollacchi and Yvonne Pollacchi, while reserving decision with regard to their demand deposit account. This current Award addresses the demand deposit account, as well as additional accounts held by Account Owners Charles Pollacchi and Louis Pollacchi.¹

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 Claimants

The Claimants, who are cousins, each submitted two Claim Forms identifying Account Owners Charles and Yvonne Pollacchi as Claimant [REDACTED 1]’s parents, Charles and Yvonne Pollacchi, née Hertz, and Account Owner Louis Pollacchi as Claimant [REDACTED 2]’s father and Claimant [REDACTED 1]’s paternal uncle, Louis Pollacchi (who was the brother of Charles Pollacchi). The Claimants indicated that Charles and Louis Pollacchi were born on 30

¹ See *In re Accounts of Charles and Yvonne Pollacchi* (approved on 14 May 2002).

November 1897 and in 1903, respectively, in Paris, France, to [REDACTED], who was Jewish. Further, according to Claimant [REDACTED 2], [REDACTED] had a brother, [REDACTED], and a sister, Georgine Roswag, née Hertz. According to the Claimants, Charles Pollacchi's wife Yvonne Pollacchi, née Hertz, who was born in August 1913 in Paris, was the daughter of [REDACTED] and therefore Charles Pollacchi's cousin.

Claimant [REDACTED 1] indicated that her parents, Charles and Yvonne Pollacchi, were married on 19 August 1930 in Cannes, France. According to Claimant [REDACTED 1], her parents resided at several locations in Paris, including 9 rue Duhesme and 107 rue de Sèvres during the 1930s, and 11 rue du Laos during the Second World War. Claimant [REDACTED 1] indicated that her parents had two children: herself, and a son, named [REDACTED]. Claimant [REDACTED 1] further indicated that her father was a businessman who also served in the military.

Claimant [REDACTED 2] indicated that his father, Louis Pollacchi, was married to [REDACTED], née [REDACTED], and that they had four children: Claimant [REDACTED 2] and three daughters, named [REDACTED], [REDACTED], and [REDACTED]. According to Claimant [REDACTED 2], his father and his uncle (Louis and Charles Pollacchi) worked for the perfume company *Coty* and lived in various cities in Europe (including Vienna, Austria; Budapest, Hungary; and Prague, Czechoslovakia). Claimant [REDACTED 2] further indicated that Charles and Louis Pollacchi returned to Paris with their families before the Second World War.

The Claimants indicated that after the Nazi occupation of France, their fathers and Claimant [REDACTED 1]'s mother were persecuted because of their Jewish heritage. Claimant [REDACTED 1] indicated that her father, being in the military service, was transferred during the War, and that her mother remained in Paris with the children. Claimant [REDACTED 2] indicated that his father was arrested and detained by the *Gestapo*, but that he was later released.

Claimant [REDACTED 1] indicated that her parents divorced in May 1951 and that her father was married to [REDACTED] in April 1952 in Paris. Finally, Claimant [REDACTED 1] indicated that her father died on 22 November 1978 in Paris, and that her mother died in September 1980 in Aix-en-Provence, France. Claimant [REDACTED 2] indicated that his father died in Paris in 1980.

In support of his claims, Claimant [REDACTED 2] submitted an extract from his family book (*livret de famille*) indicating that Charles Pollacchi was born on 30 November 1897 in Paris, and that he died there on 22 November 1978.

Additionally, Claimant [REDACTED 1] submitted: (1) her mother's birth certificate, indicating that Yvonne Hertz was born on 10 August 1913 in Paris; (2) her parents' marriage certificate, indicating that Yvonne Hertz and Charles Pollacchi were married on 19 August 1930 in Cannes and that Georgine Roswag was a witness at the ceremony, and bearing the signatures of Yvonne Hertz, Charles Pollacchi, and Georgine Roswag; (3) her own birth certificate, indicating that [REDACTED 1] was born on 16 April 1939 in Paris; (4) her father's death certificate, indicating that Charles Pollacchi died on 22 November 1978 in Paris; and (6) her mother's death certificate,

indicating that Yvonne Hertz, who was the widow of Charles Pollacchi, died on 25 September 1980 in Aix-en-Provence.

Claimant [REDACTED 1] indicated that she was born on 16 April 1939 in Paris. Claimant [REDACTED 2] indicated that he was born on 4 April 1940 in La Baule Escoublac, France.

Information Available in the Bank's Records

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") reported two accounts and provided the CRT with an account card from the Bank. According to this record, the Account Owners were Charles Pollacchi and *Madame* (Mrs.) Yvonne Pollacchi, née Hertz, both French nationals, who resided at 21 rue Danremont in Paris, France. The Bank's record indicates that Account Owners Charles and Yvonne Pollacchi jointly held a custody account and a demand deposit account denominated in Pound Sterling ("£"), both numbered 42466 and opened on 13 December 1937. As noted above, custody account 42466 was the subject of the May 2002 Award.² The Bank's record indicates that the Bank was instructed to hold all correspondence and that the Account Owners' nationality was reported to an authority ("*déclaration au DD*") on 31 March 1947. As for demand deposit account 42466, according to the Bank's record, the balance as of 30 November 1964 was equivalent to 58.00 Swiss Francs ("SF"). The record indicates that the Bank closed demand deposit account 42466 on 12 March 1975 after its balance reached zero.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about demand deposit account 42466 ("Voluntary Assistance"). The Bank provided the CRT with additional documents, including a list of account owners, an account card, signature samples, and a power of attorney form. These records do not contain any additional information about demand deposit account 42466. However, the records show that Account Owner Charles Pollacchi owned an additional account on his own and that he held five accounts jointly with Account Owner Louis Pollacchi. These accounts, described in more detail below, were not reported during the ICEP Investigation.

The records obtained through Voluntary Assistance show several addresses for Account Owners Charles and Louis Pollacchi, including: Schlösselgasse 1 in Vienna, Austria, as of 1926; 46 avenue de La Motte Picquet in Paris as of 1932; and, for Account Owner Louis Pollacchi alone, 28 avenue de L'Observatoire in Paris as of 4 November 1938 (the Bank crossed out this last address on an unknown date). These records indicate that the Bank was instructed to hold all correspondence. As of 4 November 1938, according to the records, Account Owners Charles and Louis Pollacchi jointly held a custody account and a demand deposit account, both held under the numbered account relationship CM 21959. An undated notation in the Bank's records indicates that SF 35,400.00 was transferred to demand deposit account CM 21959, with which the Bank was instructed to purchase gold for deposit in custody account CM 21959. The records further indicate that, as of 4 November 1938, Account Owner Charles Pollacchi and Account

² *Id.*

Owner Louis Pollacchi jointly held three more custody accounts, numbered FL 21844, HK 21845, and KB 21846. Furthermore, according to the records, *Mme.* (Mrs.) Rosine Roswag (“Power of Attorney Holder Roswag”) held power of attorney over the five joint accounts of Account Owners Charles and Louis Pollacchi. The records obtained through Voluntary Assistance also indicate that Account Owner Charles Pollacchi held a custody account in his own right, opened on or before 17 April 1926, over which Louis Pollacchi held power of attorney.

Aside from the balance and closure information for demand deposit account 42466 and the balance information for custody account CM 21959, the Bank’s records do not show when the accounts at issue were closed, nor do these records indicate the value of the accounts. There is no evidence in the Bank’s records that the Account Owners, Power of Attorney Holder Roswag, or their heirs closed the accounts 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 four claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Claimant [REDACTED 1]’s parents’ names and city of residence match the published name and city of residence of Account Owners Charles and Yvonne Pollacchi.³ Additionally, Claimant [REDACTED 2]’s father’s name and city of residence match the unpublished name and city of residence of Account Owner Louis Pollacchi. Furthermore, Claimant [REDACTED 2] indicated that Account Owners Charles and Louis Pollacchi resided in Vienna before the Second World War, which matches unpublished information in the Bank’s records. The Claimants also identified the Account Owners’ relationship with one another, which is consistent with unpublished information in the Bank’s records indicating that Account Owner Charles Pollacchi resided at the same address as Account Owners Yvonne and Louis Pollacchi and that he co-owned bank accounts with each of them. Additionally, the signature of Account Owner Charles Pollacchi in the Bank’s records matches the signature on the marriage certificate submitted by Claimant [REDACTED 1].

As for Power of Attorney Holder Roswag, her name was not published. The Bank’s records list her first name as Rosine. However, her signature sample in the Bank’s records, which clearly shows that her first initial is “G” and not “R,” matches the signature of Georgine Roswag on the

³ The CRT notes that Claimant [REDACTED 1] provided Paris street addresses for Account Owners Charles and Yvonne Pollacchi that differ from the address they provided to the Bank in 1937. However, given that Claimant [REDACTED 1] was not born until 1939 and is therefore unlikely to know all of her parents’ previous residences, and considering the extent of the unpublished information identified by the Claimants, as well as the signature matches, the CRT determines that this discrepancy is not substantial.

marriage certificate submitted by Claimant [REDACTED 1]. Therefore, the CRT concludes that the Bank recorded her first name in error as Rosine rather than Georgine; and, therefore, that the Claimants have plausibly identified Power of Attorney Holder Roswag.

In support of their claims, Claimant [REDACTED 2] submitted an extract from his family book and Claimant [REDACTED 1] submitted her mother's birth certificate, her parents' marriage certificate, and her parents' death certificates, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same city as those recorded in the Bank's records as the names and city of residence of the Account Owners. Finally, the CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants indicated that the Account Owners came from a Jewish family, that Account Owner Yvonne Pollacchi resided in Nazi-occupied Paris, and that Account Owner Louis Pollacchi was arrested and detained by the *Gestapo*.

The Claimants' Relationships to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information demonstrating that Account Owners Charles and Yvonne Pollacchi were Claimant [REDACTED 1]'s parents and that Account Owner Louis Pollacchi was Claimant [REDACTED 2]'s father. The CRT also notes that the Claimants have the same surname as the Account Owners and that they identified extensive unpublished information about the Account Owners as contained in the Bank's records.

The CRT notes that the Account Owners may have other surviving relatives. However, because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owners' accounts in this decision.

The Issue of Who Received the Proceeds

With respect to the demand deposit account jointly held by Account Owner Charles Pollacchi and Account Owner Yvonne Pollacchi, the Bank's records indicate that the Bank closed the account in 1975.

With respect to the accounts jointly held by Account Owners Charles and Louis Pollacchi and the account held by Account Owner Charles Pollacchi, given that there is no record of the payment of the accounts to the Account Owners, nor any record of a date of closure for the accounts; that another account co-owned by Account Owner Charles Pollacchi was closed by the Bank, that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 (f), (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 Owners, Power of Attorney Holder Roswag, or their 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that Account Owners Charles and Yvonne Pollacchi were Claimant [REDACTED 1]’s parents and that Account Owner Louis Pollacchi was Claimant [REDACTED 2]’s father, and those relationships justify an Award. Third, the CRT has determined that: (1) neither the Account Owners nor their heirs received the proceeds of demand deposit account 42466; and (2) it is plausible that neither the Account Owners, Power of Attorney Holder Roswag, or their heirs received the proceeds of the remaining accounts.

Amount of the Award

In this case, Account Owners Charles and Yvonne Pollacchi jointly held demand deposit account 42466 (and the previously-awarded custody account), Account Owner Charles Pollacchi was the sole owner of one custody account (no number available), and Account Owners Charles and Louis Pollacchi jointly held a custody account and a demand deposit account under the number CM 21959, and custody accounts FL 21844, HK 21845, and KB 21846.

With respect to demand deposit account 42466 held jointly by Account Owners Charles and Yvonne Pollacchi, the Bank’s records indicate that it had a balance of SF 58.00 on 30 November 1964. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 800.00, which reflects standardized bank fees and hold mail fees charged to the account between 1945 and 1964. Consequently, the adjusted balance of demand deposit account 42466 is SF 858.00. 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.

With respect to custody account CM 21959, jointly held by Account Owners Charles and Louis Pollacchi, the Bank’s records indicate that it held at least SF 35,400.00 deposited for the purchase of gold on an unknown date. The CRT shall adopt this as the balance.

As for demand deposit account CM 21959, custody accounts FL 21844, HK 21845, KB 21846, all of which were held jointly by Account Owners Charles and Louis Pollacchi, and Account Owner Charles Pollacchi’s custody account, the Bank’s records do not indicate their balances. 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 demand deposit account was SF 2,140.00 and the average value of a custody account was SF

13,000.00. The combined average balances for the four custody accounts and one demand deposit account is therefore SF 54,140.00.

Therefore, the combined historical and/or Article 29 balance for all of the accounts is SF 91,680.00. The current value of the amount of the award is determined by multiplying the balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 1,146,000.00.

Division of the Award

Under Article 25 of the Rules, if an account is a joint account and claimants related to each of the account owners have submitted claims to the account, it shall be presumed that each account owner was the owner of an equal share of the account. Thus, the CRT presumes that Account Owners Charles and Louis Pollacchi each owned half of demand deposit account CM 21959 and half of custody accounts CM 21959, FL 21844, HK 21845, and KB 21846.

Additionally, under Article 23(c) of the Rules, if the account owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the account owner who have submitted a claim, in equal shares by representation. Therefore, Claimant [REDACTED 1], as the daughter of Account Owners Charles and Yvonne Pollacchi, is entitled to SF 667,625.00 of the award, which corresponds to all of demand deposit account 42466, all of Account Owner Charles Pollacchi's custody account, half of demand deposit account CM 21959, and half of custody accounts CM 21959, FL 21844, HK 21845, and KB 21846. As the child of Account Owner Louis Pollacchi, Claimant [REDACTED 2] is entitled to SF 478,375.00, which corresponds to half of demand deposit account CM 21959 and half of custody accounts CM 21959, FL 21844, HK 21845, and KB 21846.

The CRT notes that Claimant [REDACTED 2]'s claims were not received until after the May 2002 Award, and so his entitlement to the custody account held jointly by Account Owners Charles and Yvonne Pollacchi that was awarded in that decision was not addressed there. However, even if his claim had been considered, he would not have been entitled to share in that award amount, as Claimant [REDACTED 1], as the daughter and direct descendant of Account Owners Charles and Yvonne Pollacchi, was more entitled to the account than Claimant [REDACTED 2], who is the nephew and descendant of the parents of Account Owners Charles and Yvonne Pollacchi.

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
15 November 2007