

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]

in re Account of Dr. Felix Pollak and Account of Elsa Pollak

Claim Numbers: 601585/AK/RT; 670023/AK/RT¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the accounts of Elsa Pollak, Julius Figdor, [REDACTED], and Felix Pollak. This Award is to the published account of Elsa Pollak (“Account Owner Elsa Pollak”) at the Zurich branch of the [REDACTED] (“Bank I”), and to the unpublished account of Dr. Felix Pollak (“Account Owner Felix Pollak”) (together the “Account Owners”) at the St. Gallen branch of the [REDACTED] (“Bank II”).

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 owners, and the banks have been redacted.

Information Provided by the Claimant

The Claimant submitted claims to the Holocaust Claims Processing Office (“HCPO”) identifying Account Owner Elsa Pollak as his maternal grandmother, Elsa Pollak, née Perles, who was born on 18 May 1880,² and Account Owner Felix Pollak as his maternal grandfather, Dr. Felix Pollak, who was born on 5 August 1869 in Vienna, Austria. The Claimant stated that his grandparents lived in Vienna, and that Felix Pollak was a chemist. In addition, the Claimant stated that his grandparents had two daughters: [REDACTED], who was born in July 1903 in Vienna, and [REDACTED], née [REDACTED] (the Claimant’s mother). The Claimant stated that his

¹ The Claimant submitted two claims, numbered B-01713 and I-01607, on 4 February 1999 and 12 March 1999, respectively, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. These claims were referred by the HCPO to the CRT, and have been assigned Claim Numbers 601585 and 670023, respectively. In his claims, the Claimant claimed accounts belonging to Elsa Pollak, Felix Pollak, Magda Pollak, and Julius Figdor. In separate decisions, the CRT awarded the account of *Julius Figdor & Sohn* to the Claimant and denied the account of M. J. Pollack to the Claimant. See *In re Account of Julius Figdor & Sohn* (approved on 2 January 2003) and *In re Account of M. J. Pollak* (approved on 3 March 2006).

² The CRT notes that, while the Claimant indicated that Elsa Pollak was born on 18 May 1880, he also submitted Elsa Pollak’s death certificate, which indicates that she was born on 28 May 1880. Accordingly, the CRT determines that the information submitted by the Claimant merely contains a typographical error.

grandparents, who were Jewish, fled Vienna to Lugano, Switzerland in approximately 1940. In addition, the Claimant stated that his parents, [REDACTED] and [REDACTED], fled Vienna to the United States. The Claimant further stated that his aunt, [REDACTED], who never married, remained in Vienna until May 1942, when she was deported to Izbica, Poland, where she perished. Finally, the Claimant stated that Felix Pollak died in Lugano in 1946, and that Elsa Pollak died in Philadelphia, Pennsylvania, the United States, on 13 December 1963.

In support of his claims, the Claimant submitted copies of documents, including:

1. the marriage certificate of *Dr. phil.* [REDACTED] and [REDACTED], issued in Zurich, Switzerland in 1938, identifying [REDACTED] as the daughter of Felix Pollak and Elsa Pollak, née Perles;
2. two patent licenses issued to Dr. Felix Pollak in Austria, dated 1934 and 1938;
3. the Claimant's birth certificate, indicating that [REDACTED 1] was born to [REDACTED] and [REDACTED] on 19 July 1941 in Philadelphia;
4. the Claimant's brother's birth certificate, indicating that [REDACTED 2] was born to [REDACTED] and [REDACTED] on 20 July 1944 in Philadelphia;
5. immigration documents pertaining to Elsa Pollak, née Perles, indicating that she applied for United States citizenship in 1948, and that she was previously married to Felix Pollak, who was born on 5 August 1869 in Vienna, and who was deceased by that time; and
6. Elsa Pollak's death certificate, indicating that she was born on 28 May 1880 in Vienna, and that she died on 13 December 1963 in Philadelphia.

As noted above, the Claimant indicated that he was born on 19 July 1941 in Philadelphia. The Claimant is representing his brother, [REDACTED 2], who was born on 20 July 1944 in Philadelphia.

Information Available in the Banks' Records

Bank I

Bank I's record submitted by 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") consists of an excerpt from Bank I's closing register of numbered accounts. According to this record, Account Owner Elsa Pollak was *Frau* (Mrs.) Dr. Elsa Pollak of Vienna, Austria. Bank I's record indicates that Account Owner Elsa Pollak held a numbered account, the type of which is not indicated, with the designation 61291. Bank I's record further indicates that the account was closed by way of transfer to another numbered account at Bank I, with the designation 61318, on 27 July 1938. The amount in account 61291 on the date of its transfer is unknown.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of Bank I to obtain additional information about this account ("Voluntary Assistance"). Bank I provided the CRT with additional information and documents. The additional documents include a customer card, a request to

hold mail, documents evidencing a loan arrangement with Bank I, and correspondence with Bank I. These documents indicate that Account Owner Elsa Pollak and Dr. Felix Pollak resided at Reisnerstrasse 6 in Vienna III. The documents also indicate that Dr. Felix Pollak corresponded with Bank I regarding account 61291, but do not specify the exact role he assumed in connection with this account. According to information provided by Bank I to the CRT, the owner of account 61318, to which the proceeds from account 61291 were transferred, closed this account on 26 January 1945 by cash withdrawal.

Bank II

The CRT notes that the auditors who carried out the ICEP Investigation did not report an account belonging to Felix Pollak during their investigation of Bank II. The existence of an account belonging to Felix Pollak is documented in records obtained from the Austrian State Archive and described in detail below.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Elsa Pollak, née Perles, numbered 41383, and of Dr. Felix Pollak, numbered 41384. These records indicate that Elsa Pollak was born on 28 May 1880, and that Felix Pollak was born on 5 August 1869, that they were both Jewish, and that they were married. In addition, the records indicate that Elsa and Felix Pollak resided at Reisnerstrasse 6 in Vienna III. The records further indicate that Elsa Pollak owned a 25 percent share in properties located at Kärntnerstrasse 45, Seilergasse 4, and Wiesingerstrasse 6 in Vienna. The records pertaining to Elsa Pollak make no mention of assets held in a Swiss bank account.

The records pertaining to Dr. Felix Pollak indicate that he was a chemist, and that he owned the factory *Chemische Fabrik Stockerau*, which was taken over by *Glasfaser Ges.m.b.H., Düsseldorf* and *Deutsche Kap-Asbest-Werke A.G., Bergedorf*, on 15 July 1939 for a payment of 5,383.00 Reichsmark (“RM”). In addition, Dr. Felix Pollak reported that he had applied for several patent licenses in 1938. This record further indicates that, on 14 December 1939, the entire value of Felix and Elsa Pollak’s assets as of 1 January 1938 was deemed to be RM 256,161.00, and that the couple was assessed atonement tax (*Judenvermögensabgabe*) of RM 36,800.00, and flight tax (*Reichsfluchtsteuer*) of RM 54,840.00. These records also contain a letter written by [REDACTED] on 5 April 1940, indicating that Felix Pollak, her father, had fled Austria on 19 March 1940.

Finally, the records pertaining to Dr. Felix Pollak indicate that he held an account at Bank II. More specifically, Felix Pollak reported that he held certain assets (*Restwerte aus einem Ausgleich*), which he indicated were deposited at Bank II. Felix Pollak further indicated that these assets, which had a value of 1,000.00 Swiss Francs (“SF”), were without value (*momentan*

kein Wert) at the time he submitted his 1938 Census records. The records contain no information regarding the account's subsequent disposition.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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 two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Elsa Pollak. The Claimant's maternal grandmother's name and city and country of residence match the published name and city and country of residence of Account Owner Elsa Pollak. The CRT notes that the Claimant's maternal grandmother's date of birth matches the date of birth for Elsa Pollak specified in the 1938 Census records submitted by her, and determines that it is plausible that the 1938 Census records were therefore filed by the Claimant's relative. Moreover, the CRT notes that the street address specified for Elsa Pollak in the 1938 Census records matches the unpublished street address of Account Owner Elsa Pollak contained in Bank I's records. In addition, the Claimant stated that his maternal grandmother was married to Felix Pollak, who held a doctor title, which matches unpublished information about Felix Pollak contained in Bank I's records. Similarly, the Claimant has plausibly identified Account Owner Felix Pollak. The Claimant's maternal grandfather's name, date of birth, profession, and city and country of residence match the name, date of birth, profession, and city and country of residence of Account Owner Felix Pollak specified in the 1938 Census records. In addition, the Claimant stated that his paternal grandfather held several patents, which corresponds to information regarding Felix Pollak contained in the 1938 Census records.

In support of his claims, the Claimant submitted documents, including Elsa Pollak's death certificate, indicating that she was born in Vienna, providing independent verification that the person who is claimed to be Account Owner Elsa Pollak had the same name and resided in the same city recorded in Bank I's records as the name and city of residence of Account Owner Elsa Pollak. The Claimant further submitted immigration documents pertaining to Elsa Pollak, indicating that she was married to Felix Pollak, who was born on 5 August 1869 in Vienna, providing independent verification that the person who is claimed to be Account Owner Felix Pollak had the same name, date of birth and resided in the same city recorded in the 1938 Census records as the name, date of birth, and city of residence of Account Owner Felix Pollak. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different city of residence than the city of residence of the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they fled Austria after its incorporation into the Reich in March 1938 (the “*Anschluss*”).

The Claimant’s Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant’s maternal grandparents. These documents include the Claimant’s birth certificate, indicating that he is the son of [REDACTED], née [REDACTED], and his parents’ marriage certificate, indicating that [REDACTED] was the daughter of Felix Pollak and Elsa Pollak. There is no information to indicate that the Account Owners have surviving heirs, other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

Bank I

Bank I’s records indicate that the account proceeds were transferred on 27 July 1938 to another account, numbered 61318, which was held by a private individual, who closed his account by cash withdrawal on 26 January 1945. Therefore, the CRT concludes that Account Owner Elsa Pollak, or another authorized party, received the proceeds of the claimed account.

Bank II

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT’s precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that Account Owner Felix Pollak reported the account in the 1938 Census; that Account Owner Felix Pollak lived in Austria until he fled to Switzerland in 1940, and therefore could not have repatriated the account without losing ultimate control over its proceeds; and given the applications of Presumptions (d) and (h), 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 Account Owner Felix Pollak 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 regarding the account held by Account Owner Felix Pollak at Bank II. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has

plausibly demonstrated that Account Owner Felix Pollak was his maternal grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither Account Owner Felix Pollak nor his heirs received the proceeds of the claimed account.

Amount of the Award

In the 1938 Census declaration submitted by Account Owner Felix Pollak contains a reference to assets held by Account Owner Felix Pollak in an account, the type of which is not indicated. In his declaration, Account Owner Felix Pollak specified that these assets were valued at SF 1,000.00, but stated that they were entirely without value (*momentan kein Wert*) as of 27 April 1938. The CRT determines that it is unable to rely on the values declared in the 1938 Census as it has no evidence regarding the circumstances of Account Owner Felix Pollak's declaration. The CRT notes that, as evidenced in a number of cases, Account Owner Felix Pollak may not have declared all of his assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules, if the amount in an account of unknown type is less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. In this case, the CRT does not find that the value of the account indicated in Account Owner Felix Pollak's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of Account Owner Felix Pollak's custody account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying 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 49,375.00.

Division of the Award

According to Article 23(1) (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. In this case, the Claimant is representing his brother, George Ernest Figor, and both are the grandchildren of Account Owner Felix Pollak. Accordingly, the Claimant and George Ernest Figor are each entitled to one-half of the total award amount.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant may appeal the Denial to the account of Account Owner Elsa Pollak to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision. Appeals should be delivered to the following address: Office of Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001 USA.

The Claimant should send appeals in writing to the above address and should include all reasons for the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

Scope of the Decision

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claims to determine whether there are additional Swiss bank accounts to which he 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 by the Special Masters.

Claims Resolution Tribunal
6 May 2006