

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 *Placek & Co.*

Claim Numbers: 213646/UM, 601415/UM^{1,2}

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the accounts of Heinrich (Jindrich) Placek, Karel (Karl/Charles) Placek, Robert Placek, Gabrielle Placek, née Weigl, Gustav Weigl, Textor (KDF TEXTOR), Jepa a.s., and *Placek & Co.* (Placek & Spol).³ This Award is to the unpublished account of *Placek & Co.* (the “Account Owner”) at the [REDACTED] (the “Bank”).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 a Claim Form identifying the Account Owner as *Placek & Co.* (Placek & Spol), a company founded in 1896 by his paternal grandfather, [REDACTED], who was married to [REDACTED], née [REDACTED], with whom he resided at 23 Tivoli in Brünn,

¹ The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 213646 and 213658. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 213646.

² The Claimant submitted numerous documents to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. Although the Claimant did not formally file a claim with the HCPO, a file containing the documents he submitted was referred by the HCPO to the CRT, and has been assigned Claim Number 601415.

³ The CRT will treat the claim to the account of [REDACTED], née [REDACTED], in a separate decision. The CRT did not locate an account belonging to [Heinrich (Jindrich) Placek, Robert Placek, Gustav Weigl, Textor (KDF TEXTOR) or Jepa a.s in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimant should be aware that the CRT will carry out further research on his claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

Czechoslovakia. The Claimant indicated that his grandparents had five children: (1) [REDACTED], (2) [REDACTED], the Claimant's father, (3) [REDACTED], (4) [REDACTED], and (5) [REDACTED]. The Claimant further indicated that *Placek & Co.*, which was founded as a tailoring establishment, grew into a wholesale textile and garment manufacturing business, as well as a department store company, with stores in various European cities. Moreover, the Claimant indicated that his father, who was married to [REDACTED], née [REDACTED], became a co-owner of the company, along with his brother, [REDACTED], and his brother-in-law [REDACTED], who was married to [REDACTED] and [REDACTED]'s sister, [REDACTED]. The Claimant further indicated that his grandmother's brother, [REDACTED], was the attorney for the company, and that Nicholas Polgar was its chief accountant, and added that the two men traveled together to Zurich, Switzerland in approximately 1938 in order to deposit money into an account under the company's name.

The Claimant stated that the owners of the company were required to replace the company's Jewish factory employees after Sudetenland was annexed by Nazi Germany in 1938. The Claimant further stated that his father, who was Jewish, fled from Czechoslovakia to London, England in March 1939, shortly before the Nazis occupied the rest of Czechoslovakia, in order to avoid further persecution. Moreover, the Claimant indicated that his uncle, [REDACTED], [REDACTED] and Nicholas Polgar were all brutally interrogated by Nazis seeking information about the family's assets, and that [REDACTED] died shortly thereafter, sometime in 1939. Furthermore, the Claimant stated that in 1940 the company owners were forced by the Nazis to sell the company to Hans Schroeder, a German citizen. The Claimant also indicated that his uncle, [REDACTED], who was Jewish, was subsequently forced to perform slave labor in Dachau and Theresienstadt. The Claimant stated that the Russian army seized the company after liberating Brünn, and that the Czech authorities ran it from 1946 onwards. According to the Claimant, his uncle survived the Second World War, but died shortly afterwards, during the early 1950s. The Claimant indicated that his father, who also lived in Canada for an unknown period in the Second World War, returned to Czechoslovakia after the Second World War, and worked as a government advisor for the reconstruction of the country's textiles industry under President Benes. The Claimant added that his father fled the country before the Communist takeover in 1948, and that he subsequently resided in Toronto, Canada, where he died in 1980. The Claimant indicated that his mother died in 1989, also in Toronto. The Claimant did not indicate the fates of [REDACTED] and [REDACTED] during the Second World War, but indicated that [REDACTED] died in 1970.

The Claimant submitted his own birth certificate, identifying his parents as [REDACTED], born on 12 April 1897 in Brünn, and [REDACTED], née [REDACTED], born on 8 October 1899, also in Brünn; and his father's birth certificate, identifying his father as [REDACTED]. In addition, the Claimant submitted documents prepared by his father in connection with a request for restitution for various Czech properties from the Czech government, which specified that *Placek & Co.* was located at Masarykova 2 in Brünn, that the Claimant's father and uncle each owned a 35% stake in the company, and that [REDACTED] owned the remaining 30%; advertisements for *Placek & Co.*, prepared in connection with its 40th anniversary in 1936, identifying [REDACTED], [REDACTED] and [REDACTED] as the directors, specifying their relationships to [REDACTED], indicating that the company manufactured and exported clothing and textiles, and noting that the company had over 500 employees; and a letter from Renata

Laxova to the Claimant, dated 20 October 1998, confirming that her father, formerly known as Mikuláš (Nicholas) Polgar, was the chief accountant of *Placek & Co.* between 1925 and 1939, and stating that her father repeatedly told her that the company owned Swiss bank accounts.

The Claimant indicated that he was born on 31 July 1930 in Brünn. The Claimant is representing his cousin, [REDACTED 2], née [REDACTED], who was born on 18 September 1922 in Vienna, Austria.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by several individuals and entities, including *Placek & Co.*

Account Information Submitted by the Claimant

The Claimant submitted several letters from the Bank to the Claimant, addressing his inquiries regarding accounts owned by his relatives. This correspondence includes a letter, dated 13 November 1998, stating that the Bank had found ledger entries indicating that company *Placek & Co.* opened a deposit account numbered 13265 on 19 April 1932, and that this account was closed on 16 December 1932.

In a letter from the Bank, dated 26 August 1999, the Bank reconfirmed the discovery outlined in its earlier letter, then continued:

“Our additional inclusive search now located a further ledger entry showing that the predecessor account under the name *Placek & Spol* had been opened as number 4265 on March 7, 1928. It was renumbered to No. 13265 in early 1932.

Apart from that, we have found another entry relating to this account number in an account closing ledger. According to this entry, the account with this number was closed on July 16, 1940. Furthermore, we have located an entry in a ledger with the title ‘List of numbers of archived collateral custody accounts’, indicating that the custody account had served as collateral, and that the documents referring to it were archived at some point between 1938 and 1941. This entry refers to an account under the name ‘*Plaeck & Co.*’, but given the resemblance of the names and the fact that the number is the same, we assume that it is possible that this entry also referred to *Placek & Co.* It seems possible that *Placek & Co.* re-opened the account after December 6, 1932, and asked [the Bank] for re-issuance of its previous account number. This way, two accounts with the same number would have been closed. Unfortunately, we have not found any further documentation on the account. In particular, we have not located any information on the details of the account closure or under the name ‘*Plaeck & Co.*’.”

The Claimant also submitted documents that appear to have been provided to him by the Bank in connection with his inquiries. These documents include a document, dated March of 1938, which indicates that an account, numbered 4265, was owned by *Placek & Co.*; an untitled document, listing the number 13265 next to a handwritten note stating “16.7.40”; and a document entitled “*Nummernverzeichnis der abgelegten Depots bis 31. Dezember 1941*” (“Number index of closed custody accounts up to 31 December 1941”), which includes the number 13265 and indicates that the account was registered under the name “*Plaeck & Co.*”.

The letters from the Bank to the Claimant also address the Claimant’s inquiries regarding his father’s personal accounts. In the letter dated 13 November 1998, the Bank informed the Claimant that it had discovered ledger entries indicating that [REDACTED] opened an account numbered 17178 on 14 December 1932, and that this account was closed on 14 December 1934. In its letter of 26 August 1999, the Bank referenced an October 1997 meeting with the Claimant, noting that at that meeting the Claimant informed the Bank that his father maintained a personal account with the Bank, that this account was transferred to his mother upon his death, and that the Claimant himself closed the account after his mother’s death. In addition, the letter stated that the Claimant’s father and mother jointly owned a passbook account, that his father in 1950 requested the transfer of the balance to his account, and that the Bank complied with that request.

The Claimant also submitted documents which were apparently provided to him by the Bank in connection with its statements regarding the personal accounts of the Claimant’s father. These documents include a document entitled “*Nummern Verzeichnis der abgelegten Depots bis 31 Dez. 1937*” (“Number index of closed custody accounts up to 31 December 1937”), which contains an entry regarding an account numbered 17178, and indicates that this account belonged to Karl Placek; an account statement for an account numbered 513653 01, dated 31 December 1977, identifying the account owner as [REDACTED], and indicating that he resided in Toronto; and an extract from the Bank’s ledger, dated 13 August 1981, listing an account numbered 531652 01.

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”) did not report an account belonging to *Placek & Co.* during their investigation of the Bank.

The CRT’s Analysis

Identification of the Account Owner

The name of the company jointly owned by the Claimant’s father and two uncles matches the name of the company identified by the Bank in its two letters to the Claimant.⁴ The CRT notes

⁴ The CRT notes that, as stated in the Bank document provided by the Claimant, it is plausible that the single reference in the Bank’s documents to an account under the name “*Plaeck & Co.*” was a typographical error,

that the Bank's records do not contain any specific information about the Account Owner other than the company's name, and that the Bank's letters to the Claimant do not provide any additional information regarding the identity of the Account Owner.

In support of his claim, the Claimant submitted documents, including submissions prepared by his father in connection with a request for restitution from the Czech government, which identifies the company as *Placek & Co.*, as well as advertisements for *Placek & Co.*, providing independent verification that the entity which is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner.

The CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that he was from Brünn, Czechoslovakia, which matches information about one of the owners of the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT further 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 owners of the Account Owner were Victims of Nazi Persecution. The Claimant stated that the owners of the Account Owner were forced to replace Jewish employees after the Nazis occupied Sudetenland. In addition, the Claimant stated that his father was Jewish, and that he fled from Czechoslovakia after the Nazis occupation in order to avoid further persecution. Moreover, the Claimant stated that his uncle, [REDACTED], was Jewish, and that he was brutally interrogated by Nazi forces after they occupied Czechoslovakia. Finally, the Claimant stated that the owners of the Account Owner were forced to sell the company to a German citizen in 1940.

As noted above, a person named [REDACTED] was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the owners of the Account Owner by submitting specific information and documents, demonstrating that they were the Claimant's father and two uncles. These documents include his own birth certificate, identifying his father as [REDACTED]; his father's birth certificate, identifying his father as [REDACTED]; and advertisements for *Placek & Co.*, identifying [REDACTED], [REDACTED] and [REDACTED] as the directors, and specifying that they were the two sons and the son-in-law of [REDACTED], respectively.

particularly because the number for that account was 13265, which was the number used for accounts owned by *Placek & Co.*

The Issue of Who Received the Proceeds

Given that [REDACTED] was brutally interrogated by Nazi forces in 1939, and that he was forced to perform slave labor in both Dachau and Theresienstadt thereafter; that the owners of the Account Owner were forced to sell the company to a German national on an unknown date in 1940; that there is no record of the payment of the Account Owner's account to any of the company's owners; that the owners of the Account Owner and their heirs would not have been able to obtain information about their 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 owners of the Account Owner 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.

The CRT notes that the Bank's records indicate that the account was closed on 16 July 1940, at which time, according to information provided by the Claimant, at least one of the owners of the Account Owner was outside Nazi-dominated territory. However, given that the Bank's records do not indicate to whom the account was closed, and that [REDACTED] fled his country of origin due to Nazi persecution, that his brother and other relatives remained in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, the CRT concludes that it is plausible that the account proceeds were not paid to [REDACTED].

The CRT further notes that, as described above, the Claimant also submitted correspondence and records from the Bank, indicating that *Placek & Co.* opened a deposit account, also numbered 13265, on 19 April 1932, and that this account was closed on 16 December 1932. In addition, the submitted documentation indicates that [REDACTED] owned four other accounts: one account, numbered 17178, which was closed on 14 December 1934; a passbook account, jointly owned with his wife, the proceeds of which he received in 1950; and two accounts in connection with which he received correspondence in the late 1977s and early 1980s. Given that both the account opened under the company's name and that [REDACTED]'s first personal account were closed several years before the Nazis annexed Sudetenland, the CRT determines that the owners of the company and [REDACTED] were able to access and close the aforementioned accounts and receive the proceeds from those accounts, respectively. Similarly, given that the Bank's records, as well as the information provided by the Bank, indicate that [REDACTED] was in contact with the Bank regarding the remaining three accounts many years after the Second World War, the CRT further determines that [REDACTED] was able to access and close the aforementioned accounts and receive the proceeds from those 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 owners of the Account Owner were his father and two uncles, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the owners of the Account Owner nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, 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.

Division of the Award

According to Article 23(3) of the Rules, if the Account Owner is a legal or other entity (such as a corporation, association, organization, etc.), the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. In this case, the Claimant submitted an affidavit drafted by [REDACTED], specifying that he and [REDACTED] each owned 35% of the entity, and that [REDACTED] owned the remaining 30%. The Claimant is representing [REDACTED 2], née [REDACTED], his cousin and [REDACTED]'s daughter. While the CRT notes that the Claimant established that his relatives were the owners of the company and identified the share of ownership that each relative held, the CRT does not have an unbroken chain of inheritance documents connecting the Claimant or his cousin to any of the relatives who owned the company. The CRT further notes that, according to Article 23(2)(c), if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. Accordingly, in this case, the CRT applies its general principles of distribution with respect to each of the owners' shares in the company. According to Article 23(1)(c), 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. Furthermore, pursuant to Article 23(1)(d), if neither the 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. Therefore, with respect to the share of the entity that belonged to [REDACTED], as his son, the Claimant has better entitlement than [REDACTED 2]. Similarly, with respect to the share of the entity that belonged to [REDACTED], as his daughter, [REDACTED 2] has better entitlement than the Claimant. Finally, as [REDACTED]'s nephew and niece, respectively, the Claimant and [REDACTED 2] are equally entitled to the share of the entity that belonged to [REDACTED]. Accordingly, the Claimant is entitled to 52.5% of the total award amount, and [REDACTED 2] is entitled to 47.5% of the total award amount.

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 his claim 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 payment by the Special Masters.

Claims Resolution Tribunal
8 August 2004