

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Gerda Elisabeth Kelly

**in re Account of Ernst Goldberg**

Claim Number: 224340/SJ<sup>1</sup>

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of Gerda Elisabeth Kelly, née Goldberg, (the “Claimant”) to the published accounts of Ernst Goldberg (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as her father, Ernst Goldberg, who was born on 16 March 1876, in Steele Kreis Essen, Germany, and was married to Marie Goldberg, née Schlesinger, in Pforzheim, Germany, on 30 May 1908. The Claimant indicated that her parents had three children, all of whom were born in Plauen, Germany. The Claimant stated that her siblings, Else and Erika, died in Plauen in 1922 and 1936, respectively. The Claimant stated that her parents traveled frequently and that they may have visited Switzerland during some of those travels. The Claimant added that her father, who was Jewish, owned a women’s clothing store that was located at Ziegelstrasse 33 in Plauen, and that her parents were able to send her to a boarding school in the United Kingdom in 1937. The Claimant added that she was unaware of her parents owning any Swiss bank account at that time. According to the Claimant, her father was forced by the Nazis to sell his business for “next to nothing,” after which he tried to obtain visas for himself and his wife to leave Germany. According to the Claimant, when these attempts proved unsuccessful, her father committed suicide in Berlin, Germany, on 21 October 1938. Furthermore, the Claimant stated that her mother managed to flee from Germany to the United States, where she resided until her death on 11 June 1965.

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<sup>1</sup> The CRT previously awarded Gerda Elisabeth Kelly accounts belonging to her maternal grandmother, Clothilde Schlesinger, who was also identified in this Claim Form. See In re Accounts of Clothilde Schlesinger (approved on 2 January 2003).

In support of her claim, the Claimant submitted documents, including her parents' marriage certificate, indicating that Ernst Goldberg and Marie Goldberg, née Schlesinger, were married on 30 May 1908 in Pforzheim; her mother's birth certificate, indicating that Marie Schlesinger was born in Pforzheim on 18 August 1886; her own birth certificate, indicating that she was born to Ernst Goldberg and Marie Goldberg, née Schlesinger, on 11 December 1919 in Plauen; her father's death certificate, indicating that he was found dead on 21 October 1938 in Berlin; an inheritance certificate issued by the District Court (*Amtsgericht*) of Plauen on 6 December 1938, indicating that Marie Goldberg, née Schlesinger, is the sole heir of Ernst Goldberg; her mother's death certificate, indicating that she passed away on 11 June 1965 in New York City; and an inheritance certificate issued by the District Court of Plauen on 16 October 1998, indicating that the Claimant is the sole heir of Marie Goldberg, née Schlesinger.

The Claimant stated that she was born on 11 December 1919 in Plauen.

### **Information Available in the Bank's Records**

The Bank's records consist of a customer card, an account-opening contract and printouts from the Bank's database. According to these records, the Account Owner was Ernst Goldberg, who resided in Plauen, Germany, and the Power of Attorney Holder was Marie Goldberg, née Schlesinger, the Account Owner's wife. The Bank's records indicate that the Account Owner held one custody account, numbered 30679, into which the Account Owner deposited a savings passbook relating to savings account numbered 10811.

According to the Bank's records, the custody account was opened no later than 22 October 1930. These records indicate that the custody account was closed on 26 January 1933 and that the savings account was closed on 31 January 1933. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name, city and country of residence match the published name, city and country of residence of the Account Owner. Furthermore, the Claimant's mother's name matches the published name of the Power of Attorney Holder. The Claimant indicated that the Account Owner and the Power of Attorney Holder were married, which matches unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records. Moreover, the Claimant identified her mother's maiden name and city of residence, which match published and unpublished information about the Power of Attorney Holder contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including her own birth certificate, identifying Ernst Goldberg and Marie Goldberg, née Schlesinger, as her parents, and indicating that she was born in Plauen, Germany. Furthermore, the Claimant submitted her parents' marriage certificate, as well as death certificates and certificates of inheritance for each of them. Additionally, the CRT notes that the name Ernst Goldberg appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably or possibly those of victims of Nazi persecution. Finally, 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, that he resided in Germany before the Second World War, that he was forced by the Nazis to sell his business for very little money, and that he committed suicide when his visa applications were denied.

#### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents, including her birth certificate, demonstrating that the Account Owner was the Claimant's father. There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

Given that; that after coming to power in 1933 the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that while the Account Owner's custody account was closed 26 January 1933, his savings account was closed on 31 January 1933; that the Account Owner died in Germany in 1938 and his wife remained in Germany until she managed to flee to the United States sometime in 1938 or later; that the Account Owner or his wife would not have been able to repatriate the accounts to Germany without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owner's account to him; that the Account Owner's heirs would not have been able to obtain information about the 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 (a), (h) and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,<sup>2</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder 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.

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<sup>2</sup> Appendix C appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, her 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 the Power of Attorney Holder nor their heirs received the proceeds of the savings account.

### Amount of the Award

In this case, given that the custody account was closed prior to the Nazis coming to power in Germany, this Award is for one savings 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 savings account was 830.00 Swiss Francs. 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 10,375.00 Swiss Francs.

### **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  
29 June 2004