

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 Accounts of Alice Goldschmidt

Claim Number: 223179/AX

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the "Claimant") to the published accounts of Alice Goldschmidt (the "Account Owner") at the Zurich branch of the [REDACTED] (the "Bank").¹

All awards are published, but where a claimant has requested confidentiality, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.²

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her maternal grandmother, Alice Goldschmidt, née Gans, who was born in Germany on 8 August 1892, and was married to [REDACTED]. The Claimant indicated that the couple resided in Hamburg, Germany, and had two children: [REDACTED], and the Claimant's mother [REDACTED 2], née [REDACTED]. In a telephone conversation with the CRT on 7 May 2003, the Claimant stated that her grandfather owned a textile factory in Amsterdam, the Netherlands, and that due to the political situation in Germany, the Claimant's mother and uncle were sent to a private school in the Netherlands. The Claimant added that her grandmother, who was Jewish, planned to flee Nazi Germany through Amsterdam in 1940, and she believes that her grandmother opened a Swiss bank account around that time. The Claimant further stated that her grandmother was set to leave Europe by ship in 1940. However the ship was sunk at the onset of the war and she ultimately reached the United States via Siberia and Shanghai. The Claimant indicated that

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), Alice Goldschmidt is indicated as having one account. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of two accounts.

² The CRT notes that in this case, the Claimant did not indicate whether or not she wished her claim to be treated with confidentiality. As a matter of policy, in such situations, the CRT affords confidential treatment.

her grandmother died in March 1992 in California, the United States. In support of her claim, the Claimant submitted her mother's birth certificate indicating that her parents were [REDACTED] and Alice Goldschmidt; her mother's U. S. Naturalization Certificate; a document stamped by the San Francisco Passport Agency, indicating that [REDACTED 2] changed her name to [REDACTED 2]; and her mother's marriage certificate, indicating [REDACTED 2]'s marriage to [REDACTED]. The Claimant stated that she was born on 12 December 1953 in San Francisco, California. The Claimant is representing her mother [REDACTED 2], née [REDACTED], who was born on 14 May 1924 in Hamburg. The Claimant indicated in her Claim Form that she also wished to represent her uncle, [REDACTED], who was born in Hamburg, Germany. However, the Claimant's uncle did not provide the CRT with a form granting the Claimant power of attorney to act in his behalf.

Information Available in the Bank's Records

The Bank's records consist of account statements, lists of accounts, Bank correspondence, documents relating to the 1962 survey of assets held in Switzerland by foreigners or stateless persons who were or who were believed to have been victims of racial, religious or political persecution, conducted by Swiss banks pursuant to a Federal decree in 1962 (the "1962 Survey"), and printouts from the Bank's database. According to these records, the Account Owner was Alice Goldschmidt from Amsterdam, the Netherlands.³ The Bank's records further indicated that Alice Goldschmidt resided at Olympiaplein 59 in Amsterdam. According to the Bank's records, the Account Owner held one custody account, numbered 52578, and one demand deposit account, both of which were opened no later than December 1939. The Bank's records indicate that the Bank held all mail to the Account Owner "as a precaution" ("*Korresp. Vorsichtshalber zurückbehalten*").

The Bank's records indicate that the custody account contained the following bonds as of 31 December 1943:

- *Auslösungsscheine Deutsche Anleihe*, with a face-value of 500.00 Reichsmark (RM); and
- *Obl. 4 1/2% Stadt Budapest*, with a face value of 2,520.00 Swiss Francs (SF).

The CRT was unable to ascertain the market value of these bonds.

The Bank's records indicate that the custody account was transferred to a suspense account for dormant assets at the Ronac Inc., Panama on or before 9 December 1960, and that the account was reported as part of the 1962 Survey. The CRT notes that the Ronac Inc., Panama, a non-bank, was founded in 1939 by the Bank for the purpose of safeguarding clients' assets against possible occupation of Switzerland by a foreign power. The Bank was absorbed by [REDACTED] in 1945 and the [REDACTED] decided in 1952 to use the Ronac to hold dormant custody accounts. Although accounts held by Ronac, a non-bank, could have been deemed non-

³ The CRT notes that some of the Bank's records refer to the Account Owner as *Frau* (Mrs.), while others refer to her as *Fräulein* (Miss).

reportable under the terms of the 1962 Survey, [REDACTED] nevertheless reported them.⁴

In a letter to the Account Owner dated 12 February 1968, which, in accordance with the Bank's decision to hold mail pertaining to the account, was never sent, the Bank "informed" the Account Owner that it held the above-mentioned securities in her custody account. The Bank wrote that the former securities (the *Auslösungsscheine Deutsche Anleihe*) were subject to the so-called "clearing process" ("*Bereinigungsverfahren*"), which, however, in her case, could not be executed because the Bank did not have her consent to publish her name. Accordingly, the Bank concluded that these securities must to all intents and purposes be considered without value ("*Sie müssen deshalb praktisch als wertlos betrachtet werden.*"). The Bank wrote further that the same held basically true for the 4 1/2% *Stadt Budapest* bonds. The Bank continued that Hungary had stopped paying interest on bonds held outside Hungary since the Second World War, and that Hungary, in the context of an agreement between Hungary and Switzerland, which was concluded in 1950, had offered to buy back such bonds from their owners. However, the Bank noted that only Swiss citizens were entitled to participate in this buy-back program. The Bank went on to say that, in order to save the Account Owner further fees, it had closed her custody account and relegated the securities to the "valueless papers" category ("*Um weitere Depotgebühren zu ersparen haben wir deshalb Ihr Depot aufgehoben und die darin befindlichen Titel zu den wertlosen Papieren gelegt.*"). The Bank concluded that, in connection with the closing of the account, it would cancel SF 226.00 in fees owed on the account from 1944 to 1967. The Bank's records indicate that the account was accordingly closed on 12 February 1968.

The Bank's records indicate that the demand deposit account was closed to fees on 24 November 1944. The last known balance of the account was SF 3.00 as of 31 December 1943.

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") indicated that there was no evidence of customer contact on these accounts after 1945.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandmother's name matches the published name of the Account Owner. The Claimant indicated that her grandmother planned to flee Germany through Amsterdam in an attempt to reach the United States, that her grandfather owned a factory in Amsterdam, and that the Claimant's mother and uncle attended private school in the Netherlands, all of which is consistent with the published information about the Account Owner's residence. In support of her claim, the Claimant submitted her mother's birth certificate indicating that she is the

⁴ See Barbara Bonhage *et al.* *Nachrichtenlose Vermögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialistischen Regimes und Restitutionsprobleme in der Nachkriegszeit.* Published by the Independent Commission of Experts Switzerland – Second World War (the "Bergier Commission"), Chronos Verlag, Zurich, 2001, p. 310.

daughter of Alice Goldschmidt thus providing independent verification that the person who is claimed to be the Account Owner had the same name as that recorded in the Bank's records as the name of the Account Owner. The CRT notes that the name Alice Goldschmidt appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT notes that the other claim to this account was disconfirmed because that claimant did not establish any connection the Account Owner's city of residence. 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 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 she fled Nazi Germany in 1940.

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 grandmother. These documents include the Claimant's mother's birth certificate, indicating that she is the daughter of Alice Goldschmidt. The Claimant is representing her mother, the daughter of the Account Owner. As noted above, the Claimant is not representing her uncle, Alan Goldsmith.

The Issue of Who Received the Proceeds

With regard to the custody account, the Bank's records indicate that the Bank closed the account on 12 February 1968.

With regard to the demand deposit account, the Bank's records show that the Bank closed the account to maintenance fees on 24 November 1944.

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 grandmother, and that relationship justifies an Award. Finally, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account. The Bank's records do not indicate the market value of the securities held in the 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 SF 13,000.00. 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 an amount of SF 162,500.00.

The Bank's records indicate that the value of the demand deposit account as of 31 December 1943 was SF 3.00. 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 balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules to produce an amount of SF 26,750.00.

Thus, the total award amount in this case is SF 189,250.00.

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, who is the grandchild of the Account Owner, is representing her mother, [REDACTED 2], who is the daughter of the Account Owner. Because the Claimant's mother is a more direct descendant of the Account Owner than the Claimant, [REDACTED 2] is entitled to the total award amount. The CRT notes that, had the CRT received a power of attorney form from [REDACTED] permitting the Claimant to represent him, he would have been entitled to one-half the 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 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