

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation

Case No. CV96-4849

Certified Award

to Claimant [REDACTED]
also acting on behalf of [REDACTED]

in re Account of Hermann Goldschmidt

Claim Number: 216318/MD

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Hermann Goldschmidt (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 his paternal grandfather, Hermann Goldschmidt, who was born on 24 February 1881 in Berlin, Germany, and was married to [REDACTED] on 12 April 1907. The Claimant stated that his grandparents, who were Jewish, had one child, [REDACTED] (the Claimant’s father), who was born on 1 December 1908. The Claimant explained that Hermann and [REDACTED] Goldschmidt lived in Berlin until approximately 1924, when they moved to Forst, Germany, where they lived at Leipzigerstrasse 6 until 1934 and Blumenstrasse 22 until 1936, when Hermann Goldschmidt died. According to the Claimant, his grandparents owned a company in Forst called *Möbel & Waren Kredithaus*. The Claimant stated that after his grandfather died, his grandmother took over the family business and moved back to Berlin where her son [REDACTED] lived. The Claimant asserted that his grandparents had bank accounts in Switzerland. According to the information provided by the Claimant, his grandmother and her son’s family fled Germany for Harbin, China, via Switzerland and Italy, arriving in China in 1939. The Claimant indicated that his grandmother died in Harbin on 12 June 1945 and that his family lived in China until 1949, when they immigrated to Israel and later returned to Germany. The Claimant further indicated that his father died on 13 December 1972 in Frankfurt am Main, Germany. In support of his claim, the Claimant submitted his grandfather’s birth certificate, identifying him as Hermann Goldschmidt, who was born in Berlin; his father’s and his own birth certificates, indicating that they were also born in Berlin; and his grandmother’s and his father’s death certificates. The Claimant’s father’s birth certificate indicates that Hermann Goldschmidt was a businessman.

The Claimant indicated that he was born on 21 January 1936 in Berlin. As the Claimant's sister, [REDACTED], née [REDACTED], is very ill, the Claimant is representing his sister's daughter, the Claimant's niece, [REDACTED], née [REDACTED], who was born on 19 June 1966 in Frankfurt, Germany. The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Hermann Goldschmidt.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Hermann Goldschmidt, who resided in Berlin-Wilmersdorf, Germany. The Bank's record indicates that the Account Owner held a demand deposit account that was opened in January 1927 and closed on 30 June 1938, and a custody account that was opened in December 1926 and closed on 14 September 1938. The Bank's record does not indicate the value of the accounts on the dates of their closure. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's grandfather's name and country of residence match the published name and country of residence of the Account Owner. In support of his claim, the Claimant submitted his grandfather's, his father's and his own birth certificates, which indicate that they were all born in Berlin, providing independent verification that the person who is claimed to be the Account Owner resided in the city recorded in the Bank's records as the residence of the Account Owner. The CRT notes that the Account Owner resided in Berlin until approximately 1924, when he moved to Forst, while the Bank's record indicates that the Account Owner was resident in Berlin in 1926, when the custody account was opened. However, given that the Claimant indicated that his grandfather had close ties to Berlin and that his son, the Claimant's father, [REDACTED], resided in Berlin until 1938, when he fled Germany, the CRT finds it plausible that the Account Owner gave the capital city of Germany, "Berlin," as his city of residence when he opened the custody account.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Hermann Goldschmidt, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Finally, the CRT notes that the other claims to these accounts were

disconfirmed because those claimants provided different cities of residence than that of the Account Owner. 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, and that he lived in Nazi Germany until his death in 1936.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents, including his own and his father's birth certificates, demonstrating that the Account Owner was his paternal grandfather. There is no information to indicate that the Account Owner has other surviving heirs, other than the Claimant and his sister, [REDACTED], née [REDACTED], whom he is not representing in these proceedings, and who did not file a claim with the CRT. The CRT notes that the Claimant is representing his niece, [REDACTED], who is the daughter of his sister.

The Issue of Who Received the Proceeds

Given that the Account Owner was Jewish and lived in Nazi Germany until his death in 1936; that the accounts were closed in 1938, two years after the Account Owner's death; that there is no record of the payment of the Account Owner's accounts to him or to his heirs; that the Account Owner's widow remained in Germany until 1939 and would not have been able to repatriate the accounts to Germany without their confiscation even if she were to have been recognized by the Bank as an heir; that the Account Owner's heirs would not have been able to obtain information about the Account Owner's 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 (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process (the "Rules"), as amended (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner 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. 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 his grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his 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. 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs, and the average value of a custody account was 13,000.00 Swiss Francs. Thus, the total 1945 average value of the accounts at issue was 15,140.00 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 189,250.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the spouse of an account owner 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 niece, [REDACTED], the daughter of the Claimant's sister, [REDACTED], née [REDACTED], who did not submit a claim and is not represented in these proceedings. Therefore, as the Claimant is the Account Owner's son and the Claimant's niece is the child of the Account Owner's daughter, the Claimant and his niece are each entitled to one-half 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 April 2004