

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
represented by Erez Bernstein

in re Account of Karl Goldschmidt

Claim Number: 501832/DE

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Karl Goldschmidt (the “Account Owner”), over which Rosa Goldschmidt (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of 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 relative 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 her paternal uncle, Karl Goldschmidt, who was born on 12 January 1885 in Nuremberg, Germany, and who never married. The Claimant indicated that her uncle, who was Jewish, was her father’s brother and the son of [REDACTED] and [REDACTED]. According to the Claimant, Karl Goldschmidt had four siblings, including a sister named Rosa Goldschmidt, who also remained unmarried. The Claimant indicated that her paternal uncle and aunt were deported to Riga, where they perished on 21 November 1941.

In support of her claim, the Claimant submitted copies of two Yad Vashem pages of testimony from the Yad Vashem Memorial of Israel which were submitted by the Claimant to the Memorial in 1955. These documents indicate that [REDACTED] was born in Nuremberg on 12 January 1885 to [REDACTED] and [REDACTED]. According to these documents, Karl Goldschmidt, who was unmarried, worked as merchant; took part in the Jewish community in Nuremberg; and resided on Goethestrasse in Munich, Germany, before being deported to Riga, where he perished on 21 November 1941. These documents also indicate that Rosa Goldschmidt was born on 8 January 1880 in Nuremberg to [REDACTED] and [REDACTED]. According to these documents, Rosa Goldschmidt remained unmarried and worked in the home before she was deported to Riga, where she perished on 21 November 1941.

The Claimant also submitted a copy of her own birth certificate, indicating that [REDACTED] was born to [REDACTED] and [REDACTED], née [REDACTED], in Munich on 11 March 1922.

Information Available in the Bank's Records

The Bank's records consist of a signed power of attorney form and printouts from the Bank's database. According to these records, the Account Owner was Karl Goldschmidt, who resided at Gartenstrasse 8a/2 in Nuremberg, Germany, and the Power of Attorney Holder was *Fräulein* (Miss) Rosa Goldschmidt, also of Gartenstrasse 8a/2 in Nuremberg. The Power of Attorney Form was signed on 28 October 1936, and indicates that Rosa Goldschmidt was to become the Power of Attorney Holder only in the event of the death of the Account Owner. This document indicates that in the event of the Account Owner's death, the Power of Attorney Holder was also to have access to the assets in the account. These records do not indicate the type of account the Account Owner held.

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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or his heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant's paternal uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner, and the Claimant's paternal aunt's name and city and country of residence match the published name and city and country of residence of the Power of Attorney Holder. The Claimant also identified the Power of Attorney Holder's marital status, which matches unpublished information about the Power of Attorney Holder contained in the Bank's records.¹

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes pages of testimony submitted by the Claimant in 1955 which indicate that Karl Goldschmidt was born on 12 January 1885 in Nuremberg; that Rosa Goldschmidt was born on 8 January 1880 in Nuremberg; that both were the children of [REDACTED] and [REDACTED]; and that both remained unmarried, all of which matches the information about the Account

¹ The CRT notes that the Claimant did not indicate the street address of the Account Owner and Power of Attorney Holder in Nuremberg.

Owner and the Power of Attorney Holder provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the names Karl Goldschmidt and Rosa Goldschmidt appear 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 "ICEP List").

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of 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 and the Power of Attorney Holder were Jewish, and that they were deported to Riga, where they perished on 21 November 1941. As noted above, persons named Karl Goldschmidt and Rosa Goldschmidt were included in the CRT's database of victims.

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 paternal uncle and the Power of Attorney Holder was the Claimant's paternal aunt. These documents include pages of testimony submitted by the Claimant to Yad Vashem in 1955, indicating that she was the niece of the Account Owner and the Power of Attorney Holder.

The CRT notes that the Claimant identified unpublished information about the Power of Attorney Holder, and that the Claimant submitted a copy of her birth certificate, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and resided in Germany. The CRT further notes that the Claimant identified information that matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The CRT notes that the Claimant indicated that she may have other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder perished in Riga; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner's heirs would not have been able to obtain

information about his 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 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.

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 paternal uncle and the Power of Attorney Holder was her paternal aunt, and those relationships justify 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 claimed account.

Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00.

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
18 December 2008