

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of the Estate of Karoline Goldschmidt

Claim Number: 400582/MI¹

Award Amount: 211,875.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], formerly [REDACTED] (the “Claimant”), to the published account over which E. Goldschmidt held power of attorney.² This Award is to the published accounts of Karoline Goldschmidt (the “Account Owner”) at the [REDACTED] (the “Bank”).³

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 2005 Claim Form identifying the Account Owner as his paternal great-aunt, Lena Goldschmidt, who was born in Vienna, Austria, and who had two children: [REDACTED] and Edmond Goldschmidt. The Claimant stated that his great-aunt, who was Jewish, was deported to a concentration camp, where she perished. According to the Claimant, Edmond Goldschmidt was born in Vienna, where he married [REDACTED], and resided in Vienna until 1939, when he fled to Brussels, Belgium. The Claimant indicated that Edmond Goldschmidt, who was Jewish, was an investor and frequently traveled to Switzerland on business. According to the Claimant, he often saw Edmond Goldschmidt in Brussels between

¹ The Claimant submitted one additional claim, which is registered under the Claim Number 770193. The CRT treated the claim to this account in a separate letter, mailed to the Claimant on 17 January 2006.

² The CRT will treat the claim to this account in a separate decision.

³ 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”), Karoline Goldschmidt is indicated as having two accounts, Waldemar Goldschmidt is indicated as having two accounts, and Edmond Goldschmidt is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only two accounts, which were owned by Karoline Goldschmidt, and which her sons, Waldemar Goldschmidt and Edmond Goldschmidt, inherited in equal shares, upon her death.

February 1939 and April 1940. Finally, the Claimant indicated that Edmond Goldschmidt died in 1976 in New York, New York, the United States.

In support of his claim, the Claimant submitted a copy of a postcard, dated 18 September 1939, addressed to [REDACTED] in Brussels and signed, “*Vater*” (father), in which [REDACTED]’s father informed him of an upcoming visit by their cousin, “Edmond G.,” the brother of [REDACTED].

The Claimant indicated that he was born on 7 June 1926 in Vienna.

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 provide any records from the Bank pertaining to the claimed account. The documents evidencing accounts belonging to the estate of Karoline Goldschmidt were obtained from archival sources in Austria and are further described below.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of [REDACTED] and Edmond Goldschmidt.

The files concerning the assets of [REDACTED], numbered 39010, contain [REDACTED]’s 1938 Census declaration and official correspondence. His asset declaration indicates that he was born on 1 December 1886 in Bucharest, that he was a medical doctor and surgeon, that he was married to [REDACTED], née [REDACTED], and that he lived at Liechtensteinstrasse 12 in Vienna IX. The declaration further indicates that [REDACTED]’s mother, Karoline (Lina) Goldschmidt, died on 9 November 1936 and that her sons [REDACTED] and Edmond Goldschmidt each inherited one-half of their mother’s estate. The declaration indicates that [REDACTED] owned one-sixth interest in a house at Peter Jordanstrasse 12 in Vienna XIX, and later inherited an additional one-third interest in the same house. The correspondence contains a notice from the flight tax authorities (*Reichsfluchtsteuerstelle*) dated 4 July 1939, advising that on the basis of total assets of 189,000.00 Reichsmark (“RM”) as of 1 January 1938, [REDACTED] was being assessed flight tax of RM 47,250.00. In a letter notifying the authorities of changes in his assets since 27 April 1938, dated 30 December 1938, [REDACTED] noted that he had paid the full amount of flight tax due as well as the first tranche of the atonement tax (*Judenvermögensabgabe*) of RM 4,350.00.

In his 1938 Census declaration, [REDACTED] further reported that his mother’s not yet divided estate (*noch nicht eingewortet*) held two accounts at the Bank - a custody account and an

account of unknown type - which had been willed to him and his brother Edmond Goldschmidt in equal shares. The asset declaration indicates that the custody account contained 5% *Oest. garant. Konversionsanleihe 1934* bonds with a nominal value of SF 4,000.00, a market value of SF 1,840.00, and interest accrued from 1 December 1937 through 27 April 1938 valued at SF 81.10, for a total market value of SF 1,921.10, and the account of unknown type was reported to contain SF 1,303.40.

The files concerning the assets of Edmond Goldschmidt, numbered 61289, contain only correspondence. This correspondence indicates that he was born in 1888 in Bucharest, that he was married to [REDACTED], that he lived in Zagreb, Croatia and was the Executive Director of the *General Yugoslav Banking Association* in Belgrade and Zagreb. It further indicates that he was a Czechoslovakian citizen. In a letter to the authorities in Vienna, dated 2 April 1938, Edmond Goldschmidt asserted that the reporting regulations regarding foreign-held assets did not apply to him as he was neither a resident nor a national of the Reich as he derived no income from sources within Austria and spent only his holidays in Vienna. In a reply dated 7 April 1938, the head office of the *Reichsbank* in Vienna confirmed his assertion as being correct. The records thus make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's great-aunt's name and city and country of residence match the published name and city and country of residence of the Account Owner contained in the 1938 Census records. The Claimant's great-aunt's children's names, and their city and country of residence match the published names and city and country of residence of the Account Owner's sons, who were her beneficiaries. The Claimant indicated that Edmond Goldschmidt resided outside of Austria, which matches information contained in the 1938 Census records.

The CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that his date of birth was 1 December 1886, which matches the information about [REDACTED] 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 Claimant filed an Initial Questionnaire with the Court in 1999 asserting his entitlement to a Swiss bank account owned by Paul 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. The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Target of Nazi Persecution

The CRT notes that the Claimant stated that the Account Owner was deported to a German concentration camp, where she perished. However, in his 1938 Census declaration, her son, [REDACTED] indicated that his mother died in 1936, prior to the Nazi incorporation of Austria into the German Reich in 1938 (the “*Anschluss*”). Although the Account Owner was therefore not a Victim of Nazi Persecution, the CRT notes that her sons and beneficiaries, [REDACTED] and Edmond Goldschmidt, were Victims of Nazi Persecution. The Claimant stated that [REDACTED] and Edmond Goldschmidt were Jewish, that Edmond Goldschmidt fled to Belgium, and that [REDACTED] lived in Nazi-controlled Austria during the Second World War. As noted above, a person named [REDACTED] was included in the CRT's database of victims. The CRT notes that [REDACTED] was required to register his assets in the 1938 Census and to pay flight and atonement tax.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and a copy of a postcard, sent to him by his father, demonstrating that the Account Owner was the Claimant’s great-aunt. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the 1938 Census records; that the Claimant filed an Initial Questionnaire with the Court in 1999, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted a copy of a postcard, sent to him by his father. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess, and which provides independent verification that the Claimant had a family member with the same last name as the Account Owner, and whose first initial and last name match those of the Account Owner's son and beneficiary. 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 he has asserted in his Claim Form.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT’s precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner's son and beneficiary, [REDACTED], reported the accounts in the 1938 Census; that the Account Owner, her beneficiaries, and their heirs would not have been able to obtain information about their 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 (d) and (h) 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 Owners 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 his great-aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor her beneficiaries, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

According to the 1938 Census declaration submitted by the Account Owner's son, [REDACTED], the value of the Account Owner's account of unknown type was SF 1,303.40 as of 27 April 1938, and her custody account contained 5% *Oest. garant. Konversionsanleihe 1934* bonds with a nominal value of SF 4,000.00, a market value of SF 1,840.00, and interest accrued from 1 December 1937 through 27 April 1938 valued at SF 81.10, for a total market value of SF 1,921.10. The CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of [REDACTED]'s declaration. The CRT notes that, as evidenced in a number of cases, [REDACTED] may not have declared all of the Account Owner's assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. Additionally, pursuant to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00 and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. In this case, the CRT does not find that the value of the account indicated in [REDACTED]'s 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's demand deposit account and custody account shall be determined to be SF 3,950.00 and SF 13,000.00, respectively, for a combined value of SF 16,950.00 for the two accounts at issue. 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 a total award amount of SF 211,875.00.

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 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
9 November 2006