

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Dieter Goldschmidt

## **in re Account of Werner Goldschmidt**

Claim Number: 207926/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Dieter Goldschmidt (the “Claimant”) to the account of Werner Goldschmidt (the “Account Owner”) at the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (the “TAD”) at 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 his father, Werner Adolf Goldschmidt, who was born in Berlin-Schönberg, Germany, on 10 May 1898. The Claimant stated that his father was married to Elisabeth Klara Goldschmidt, née Niedergesäss, in Berlin-Wittenau, Germany, on 4 September 1934. The Claimant further stated that his father resided in Berlin from 1934 to 1982, and that he worked in several professions, including as a salesman of ready-to-wear clothing, as a legal advisor, as an advisor in tax matters and as an insurance agent for *Rhein. Westf. Versicherung*. According to the Claimant, his father held a Swiss bank account, which might have been opened by Franz Goldschmidt, the Claimant’s grandfather. The Claimant explained that his father was Jewish and that after 1934, as a result of Nazi persecution, he was prohibited from continuing his self-employed work and was forced to work building railroads for the *Deutsche Reichsbahn*. He worked for the *Deutsche Reichsbahn* until he was injured, and then he was forced to work for a private family. After working for the family, he was forced to work at *Viktoria Mühlenwerke* in 1940 and then at *Metalldreherei J.W.B.* in Berlin in 1941. The Claimant further explained that during the time his father performed forced labor, he was able to live at his private residence in Berlin.

The Claimant indicated that his father passed away in Berlin-Biesdorf, Germany, on 11 August 1982, and that his mother died in Berlin on 30 December 1981. The Claimant stated that he is his parents’ only child and that he was born in Berlin on 13 June 1935.

In support of his claim, the Claimant submitted documents, including an inheritance certificate, dated 12 July 1983, identifying the Claimant as his father's sole heir; his father's death certificate indicating that the Claimant's father died in Berlin-Biesdorf on 11 August 1982; his parents' marriage certificate, indicating that the Claimant's parents were married in Berlin-Wittenau on 4 September 1934; and his own birth certificate, identifying Werner Adolf Goldschmidt and Elisabeth Klara Goldschmidt, née Niedergesäss, as his parents and indicating that he was born in Berlin on 13 June 1935.

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

The Bank's record consists of a signed copy of the Bank's General Terms and Conditions. According to this record, the Account Owner was Werner Goldschmidt, who signed the General Terms and Conditions on 19 January 1941 in Zurich, Switzerland. The Account Owner's place of residence is not indicated. The Bank's record indicates that the Account Owner held one account, the type of which is not recorded.

The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the databases comprising the approximately 4.1 million accounts representing the approximately 6.8 million accounts that were identified by the ICEP auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 accounts, in databases located at the 59 ICEP audited Swiss banks,<sup>1</sup> are composed of 1.9 million savings accounts with a 1930-1940s value of 200 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included within the Account History Database -- the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

In order to expedite the results of the ICEP investigation, certain necessarily arbitrary presumptions were used to exclude the 1.9 million savings and Swiss address accounts from the probable or possible accounts category. The 2.2 million were matched against the ICEP's victims database, but the reason for their exclusion in at least a significant number of cases no longer appears to be valid in the light of the experience of the CRT in reviewing cases as part of the Claims Resolution Process. For example, many accounts were excluded from the Account History Database on the grounds of activity after 1945, but in some cases there now appears to be no evidence that the account owners had full dominion over the accounts and were not just inquiring whether the bank, after many years, still maintained the record of their deposits, a fact often denied by the banks in these circumstances as has been demonstrated in many Awards made by the CRT.

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<sup>1</sup> These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

These two sources may contain significant numbers of accounts of Nazi victims, especially when it is considered that of the 33,000 claims that were submitted to the CRT, 21,000 did not match to the 36,000 accounts in the Account History Database of probable and possible Nazi victim accounts. Because of the significant potential of this body of accounts, in its final Report in December 1999, ICEP specifically recommended that all claims submitted to the CRT should be matched against the applicable databases of accounts. The Rules Governing the Claims Resolution Process provide the procedures under which the TADs would be available for matching and research, but as a practical matter, until now, they have not been available to the CRT for this purpose.

Starting in the first week of this year, a test of the TAD was initiated at the Bank, with its full cooperation. The results of this test are now being compiled. This award is part of a group of accounts identified during the TAD test. Others are in the process. A final recommendation on the use of the TAD will be made to the Court when the final results of the test have been compiled.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Account Owner's name matches the unpublished name of the Account Owner. The CRT further notes that the Claimant submitted documents, including his own birth certificate, identifying Werner Goldschmidt as his father, and an inheritance certificate, identifying the Claimant as his father's sole heir. 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 Nazi Germany, that he was prohibited from continuing his self-employed work after 1934, and that he performed forced labor for *Deutsche Reichsbahn*, a private family, *Viktoria Mühlenwerke* and *Metalldreherei J.W.B.*

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that the Account Owner was the Claimant's father. These documents include the Claimant's birth certificate, identifying Werner Goldschmidt as his father. There is no information to indicate that the Account Owner has other surviving heirs.

## The Issue of Who Received the Proceeds

Given that the Account Owner was persecuted by the Nazis as early as 1934 by denying him employment; that the Account Owner performed forced labor, and therefore probably could not have repatriated the proceeds of his account to Germany without their confiscation; that there is no record of the payment of the Account Owner's account to him or his heirs; that the Account Owner and his 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 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 father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his 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 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 an account of unknown type was 3,950.00 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 49,375.00 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 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) at banks other than the Bank.

**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