

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
acting on behalf of [REDACTED 2], [REDACTED 3],
and [REDACTED 4]

in re Accounts of Rudolf Goldmann and Hedy Hock

Claim Number: 719424/TW¹

Award Amount: 356,812.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of Rudolf Goldmann. This Award is to the published account of Rudolf Goldmann (“Account Owner Goldmann”), over which Anneliese Goldmann held power of attorney (“Power of Attorney Holder A. Goldmann”), and to the published accounts of Hedy Hock (“Account Owner Hock”) (together the “Account Owners”), over which [REDACTED] (“Power of Attorney Holder [REDACTED]”) and Account Owner Rudolf Goldmann held power of attorney (together the “Power of Attorney Holders”), at the Zurich branch of the [REDACTED] (the “Bank”).²

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 an Initial Questionnaire (“IQ”) identifying the Account Owners as his grandfather, Dr. Rudolf Goldmann, who was born on 26 December 1876 in Teplitz, Austria (today, the Czech Republic), and Hedy Hock, the sister of his grandfather’s first wife. The

¹ The Claimant did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered I-Q-HEB 0223 001, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 719424.

² 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”), Hedy Hock is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of three accounts.

Claimant indicated that his grandfather was first married to [REDACTED], née [REDACTED], who died of cancer in 1934. The Claimant stated that on 13 December 1940, Dr Rudolf Goldmann married [REDACTED], née [REDACTED]. The Claimant stated that Hedy Hock never married and died in 1941. The Claimant indicated that Dr. Rudolf Goldmann's family and Hedy Hock resided in Hietzing at Hauptstrasse 118 in Vienna, Austria. The Claimant indicated that Dr. Rudolf Goldmann, who was an engineer, worked as a deputy minister in the Finance Ministry, and after retiring from the Ministry in 1936, began working for the Vienna Jewish Community. The Claimant indicated that Dr. Rudolf Goldmann, who was Jewish, had a son named [REDACTED], the Claimant's father, who was born on 4 February 1912, and a daughter named Anneliese Goldmann, who was born on an unknown date. According to the Claimant, Dr. Rudolf Goldmann and his second wife, [REDACTED], née [REDACTED], fled to Belgium and lived at Woluw, St Lambert, 89 Ave Constant Montald from 1941. The Claimant further stated that on 17 July 1943, Dr. Rudolf Goldmann and his wife were captured and deported to Auschwitz, where they perished.

The Claimant further indicated that his father, [REDACTED], first married [REDACTED], with whom he had one child, [REDACTED 2], born on 18 June 1940. The Claimant stated that [REDACTED] subsequently married the Claimant's mother, [REDACTED], née [REDACTED], on 14 August 1950. The Claimant indicated that the family changed their name from "[REDACTED]" to "[REDACTED]" on 15 May 1959. The Claimant further stated that his aunt, Anneliese Krieger, née Goldmann, had two children, [REDACTED 3] and [REDACTED 4], who are presently living in Israel.

In support of his claim, the Claimant submitted his own birth certificate showing that he was born on 20 June 1953 and that his parents were [REDACTED] and [REDACTED]; his father's birth certificate showing that he was born on 4 February 1912 in Vienna and that his parents were Dr. Rudolf Goldmann and [REDACTED], née [REDACTED]; his father's change of name application in Haifa, Israel, dated 15 May 1959, in which the family name was changed from "[REDACTED]" to "[REDACTED]"; the Claimant's father's marriage certificate, indicating that his father was an engineer by profession; his father's death certificate showing that he was born in Vienna in 1912, and a postcard written by Hedy Hock and her mother.

The Claimant indicated that he was born on 20 June 1953. The Claimant represents his half-brother [REDACTED 2], born on 18 June 1940, and his cousins [REDACTED 3] and [REDACTED 4], born on 7 March 1955 and 10 September 1943 respectively.

Information Available in the Bank's Records

Account Owner Goldmann

The Bank's records consist of printouts from the Bank's database, power of attorney forms and correspondence between the Bank's branches in London and Zurich, dated 1948, and correspondence between [REDACTED] and the Bank, dated 1946. According to these records, Account Owner Goldmann was Dr. Rudolf Goldmann, who resided at Hietzinger Hauptstrasse 118 in Vienna, Austria, and Power of Attorney Holder A. Goldmann was *Fräulein* (Miss)

Anneliese Goldmann, Account Owner Goldmann's daughter. The power of attorney form was signed on 27 November 1936.

The Bank's records indicate that Account Owner Goldmann held one demand deposit account. According to the Bank's records, the demand deposit account was closed, but the date of closure is not recorded. The Bank's records do not show the value of this account. 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 activity on this account after 1945.

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

The Bank's records contain correspondence, dated 1946, between [REDACTED], Account Owner Goldmann's son, and the Bank, in which [REDACTED] requested information about his father and other relatives, including *Fräulein* Hedy Hock and [REDACTED] of Prague. In his letter dated 6 November 1946, [REDACTED] wrote that he was willing to abide by all Swiss legal requirements to obtain the requested information. He specifically asked whether any one of the three named individuals had an account at the Bank at the time the War broke out, and whether any account in their names still existed. To facilitate the search, [REDACTED] enclosed a general power of attorney form, signed and dated 22 January 1939 in Vienna, in which Dr. Rudolf Goldmann gave his son, [REDACTED], engineer, general power of attorney over his affairs. [REDACTED] concluded his letter by saying that the assets belonged to Nazi victims and that most of their heirs were living in dire poverty in Holland and England.

The Bank's response to [REDACTED]'s letter, dated 17 December 1946, stated that, due to Swiss legal requirements, it would only be able to respond to his request after he presented documents authenticated by the relevant Swiss consulate ([REDACTED] resided at the time in Haifa, Palestine) that prove that he is the rightful heir of the account owner, or, at the very least, that he acted with power of attorney for the rightful heir. The Bank's letter continued that, in addition, due to costs of such research, and due to the increasing number of such inquiries the Bank had received since the end of the War, it required advanced payment of a minimal fee of SF 40.00. The records do not indicate if [REDACTED] responded to this letter.

The Bank's records also contain correspondence between the Bank's offices in London and Zurich, dated 1948, in which the London office of the Bank requested, on behalf of Account Owner Goldmann's cousin, [REDACTED], information about any accounts owned by Dr. Rudolf Goldmann or Hedi Hock. According to the records, the Zurich office of the Bank informed its office in London that it was not holding any assets belonging to Dr. Rudolf Goldmann or to Hedy Hock.

Account Owner Hock

The Bank's records consist of printouts from the Bank's database and a customer card. According to these records Account Owner Hock was *Fräulein* (Miss) Hedy Hock, who resided at Hietzinger Hauptstrasse 118 in Vienna, Austria and thereafter at Wenzgasse 3, Vienna. The

Bank's records further indicate that Power of Attorney Holder [REDACTED] was [REDACTED], née [REDACTED], but that this power of attorney was annulled upon the death of [REDACTED]. According to the Bank's records, Dr. Rudolf Goldmann was then given full power of attorney on 29 November 1934.

The Bank's records indicate that Account Owner Hock held a custody account numbered 32337, a demand deposit account, and a time deposit account. The Bank's records indicate that the custody account was closed on 16 August 1938, and that the demand deposit account and the time deposit account were closed no later than 16 August 1938. The Bank's records do not contain any information about the value of the accounts held by Account Owner Hock.

There is no evidence in the Bank's records that Account Owner Hock, Account Owner Goldmann, or their heirs closed the accounts at issue and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/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 Dr. Rudolf Goldmann, numbered 19807 and dated 15 July 1938 and Hedy Hock, numbered 29769 and dated 15 July 1938.

Information about Account Owner Goldmann

Dr. Rudolf Goldmann's 1938 Census declaration indicates that he was Jewish, that he was born on 26 December 1876 in Teplitz, Austria and that he was married to [REDACTED], née [REDACTED]. The records indicate that he resided at Hauptstrasse 118 in Vienna, Austria. The records further indicate that as of 14 December 1938, Dr. Rudolf Goldmann held assets, including securities and an insurance policy, with a total value of 11,765.89 Reichsmark ("RM"). These records make no mention of assets held in a Swiss bank account.

Information about Account Owner Hock

Hedy Hock's 1938 Census declaration indicates that she was Jewish, that she was born on 21 November 1885 and that she resided at Wenzgasse 3 in Vienna, Austria. The records indicate that Hedy Hock owned an account at the Bank in Zurich, Switzerland, and that the balance on the account was 11,205.00 Swiss Francs ("SF") ("[REDACTED] 11205"). The records show that this balance was held either in a current or a time deposit account.

Hedy Hock's 1938 Census declaration also indicates that she owned various securities, including bonds denominated in Swiss Francs (with a total value of SF 6,256.50), but there is no information about where those securities were held.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's grandfather's and great-aunt's name, city and country of residence match the Account Owners' published names, cities and countries of residence. The Claimant's aunt's name matches the published name of Power of Attorney Holder A. Goldmann, and the Claimant's grandmother's name matches the unpublished name of Power of Attorney Holder [REDACTED]. The Claimant identified the following information that matches unpublished information about the Account Owner contained in the Bank's records: his relatives' street addresses; the fact that his grandfather held the title of doctor; Dr. Rudolf Goldmann's son, [REDACTED], and his profession as an engineer. In support of his claim, the Claimant submitted his father's birth certificate stating that he was born on 4 February 1912 in Vienna, and that his parents were Dr. Rudolf Goldmann and [REDACTED], née [REDACTED], providing independent verification that the person who is claimed to be Account Owner Goldmann had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of Account Owner Goldmann.

Additionally, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Dr. Rudolf Goldmann, and indicates that his date of birth was 26 December 1876 and his place of birth was Teplitz, Austria, which matches information about Dr. Rudolf Goldmann 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 IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Dr. Rudolf Goldmann, 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 further notes that the name Hedy Hock appears only once on the ICEP List.

The CRT notes that the other claim to the account of Dr. Rudolf Goldmann was disconfirmed because that claimant provided a different country of residence than the country of residence of Account Owner Goldmann. The CRT further notes that there are no other claims to the accounts of Hedy Hock.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that Account Owner Goldmann fled Austria for Belgium and was captured and deported to Auschwitz, where he

perished, and that Account Owner Hock resided in Nazi-controlled Austria. As noted above, a person named Dr. Rudolf Goldmann was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents demonstrating that Account Owner Goldmann was the Claimant's grandfather and Account Owner Hock was his grandmother's sister. These documents include the Claimant's birth certificate indicating that his father was [REDACTED] and the Claimant's father's birth certificate indicating that his parents were Dr. Rudolf Goldmann and [REDACTED], née [REDACTED].

The CRT notes the following: that the Claimant identified unpublished information about Account Owner Hock as contained in the Bank's records; that the Claimant submitted a copy of a postcard written by Hedy Hock and her mother and that it is plausible that this document is a document which most likely only a family member would possess; that the Claimant submitted a copy of his father's birth certificate indicating that his mother's maiden name was Hock and that he was born in Vienna, which provides independent verification that the Claimant's relatives bore the same family name and resided in the same city as Account Owner Hock and that the foregoing information is of the type that family members would possess and indicates that Account Owner Hock was well known to the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to Account Owner Hock.

There is no information to indicate that the Account Owners have other surviving heirs other than the parties the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's records indicate that the demand deposit account held by Account Owner Goldmann was closed on an unknown date, and that the demand deposit account and the time deposit account held by Account Owner Hock were closed on an unknown date, no later than 16 August 1938. The Bank's records further indicate that the custody account, numbered 32337, held by Account Owner Hock, was closed on 16 August 1938. With respect to the latter, the CRT notes that the Account Owner could not at that time have repatriated the assets in the account without losing ultimate control over their proceeds.

In this case, the CRT notes that the Account Owners' heirs attempted to obtain information about the accounts, but were turned away by the Bank, even though the records clearly still existed and were ultimately identified during the ICEP Investigation. In its Memorandum and Order of February 19, 2004, the United States District Court for the Eastern District of New York specifically addressed the practice of Swiss banks to deflect inquiries from heirs, particularly those that were the subject of forced transfers or transfers ordered under duress.

The Court's Memorandum notes that, after the Second World War, Swiss banks stonewalled as a matter of course and was of one mind about this. Citing the Bergier Report, the Court notes that:

In May 1954, the legal representatives of the big banks coordinated their response to heirs so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry. They agreed not to provide further information on transactions dating back more than ten years under any circumstances, and to refer to the statutory obligation to keep files for only ten years, even if their records would have allowed them to provide the information.

Id. at 446. As was the case with the decision to transfer assets when the account holder was making the request under duress, the most noteworthy aspect of this Bergier Commission finding may be the fact that it was such a collective decision by the banks. The banks, as a matter of policy, refused to disclose information regarding accounts, even where they had it.³

The Court's Memorandum and Order further notes that Swiss banks distinguished among account owners when applying their stonewalling tactics:

Notably, the banks' understanding of where they could be liable and where they most needed to employ stonewalling turned on the identity of the account owners. The Volcker Committee described records found in one of Switzerland's large commercial banks as follows:

Legal department documents from 1953 to 1969 outline recommended procedures for responding to claims of Jewish account holders and their heirs whose assets were transferred to Germany in the 1930s. A letter from 1969 recommends that

in the case of inquiries about Jewish clients whose assets had to be transferred on their instructions to Germany during the 1930s, or with regard to inquiries received from their heirs, we have always responded that we could not supply the requested information as we are only obliged to retain ledgers and correspondence for a period of 10 years.

The legal department recognized that because the transfer orders were made under duress the risk existed that the bank might be liable to restore the accounts to the rightful owners. **However, the legal department noted that claims by non-Jewish German nationals were not**

³ *In re Holocaust Victim Assets Litig.*, 302 F. Supp. 2d. 59, 68-69 (E.D.N.Y. 2004), *amended*, 319 F. Supp. 2d 301, 311 (E.D.N.Y. 2004).

considered a liability, which suggests that the bank treated inquiries from Jewish customers differently from those received by non-Jewish German nationals.

The management of the bank apparently endorsed these procedures in December 1969.

Volcker Report, Annex 5, at 83 (emphasis added). The banks considered Jewish account holders a special problem.⁴

The present case provides yet another example of the typical method Swiss banks used to deflect inquiries made by heirs of Jewish victims whose assets had been transferred, under duress, into the Reich.

Accordingly, given the above, and given that Account Owner Goldmann perished in Auschwitz; that Account Owner Hock lived in Austria until her death in 1941, and therefore could not have repatriated the assets in her custody account, which was closed on 16 August 1938, without losing ultimate control over their proceeds; that there is no record of the payment of the Account Owners' accounts to them nor any record of a date of closure for the remaining accounts; that the Account Owners' heirs were not 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), (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 Owners, the Power of Attorney Holders, 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 Account Owner Goldmann was his grandfather and Account Owner Hock was his grandmother's sister, and that those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Goldmann held a demand deposit account, and Account Owner Hock held a custody account, a demand deposit account and a time deposit account, which is not included in the list of account types listed in Article 29 of the Rules, and is therefore treated as an "other type" of account.

⁴ *Id.* At 311-312.

With regard to the demand deposit account held by Account Owner Goldmann, 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 demand deposit account was SF 2,140.00. 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 award amount of SF 26,750.00 for this account.

With respect to the accounts owned by Account Owner Hock, the CRT notes that Account Owner Hock declared assets totaling SF 11,205.00 at the Bank and indicated that this balance referred to a current or time deposit type of account. Accordingly, the CRT considers that the SF 11,205.00 value reported by Account Owner Hock in her 1938 Census declaration refers to the balance of her demand deposit account. 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 award amount of SF 140,062.50 for this account.

With regard to the custody account and time deposit account held by Account Owner Hock, 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 and the average value of an account of other type was SF 2,200.00. The total average value of these two accounts was therefore SF 15,200.00. 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 a total award amount of SF 190,000.00 for these two accounts. Thus, the total combined award amount for the accounts of Account Owner Goldmann and Account Owner Hock is SF 356,812.50.

Division of the Award

According to Article 23(1)(c) of the Rules, if an 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. Further, according to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have 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 half-brother, [REDACTED 2] and his cousins [REDACTED 3] and [REDACTED 4]. Accordingly, as grandchildren of Account Owner Goldmann and as the great-nieces and great-nephews of Account Owner Hock, the Claimant, his half-brother and his cousins are each entitled to one-quarter 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
10 December 2004