

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1] (also acting on behalf of [REDACTED]),

Claimant [REDACTED 2] (represented by [REDACTED]),

and

Claimant [REDACTED 3]

in re Accounts of Auguste Goldschmid

Claim Numbers: 213273/AY, 215059/AY, 216703/AY, 220621/AY

Award Amount: 181,680.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”), and [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”), (together the “Claimants”) to the accounts of Auguste Goldschmid (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED] has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted Claim Forms identifying the Account Owner respectively as their grandmother, mother and mother-in-law, Auguste Goldschmid, née Wolf. The Claimants indicated that Auguste Goldschmid was born on 11 June 1888 in Vöslau, Austria, to [REDACTED] and [REDACTED], née [REDACTED], and was married to [REDACTED] on 3 June 1909 in Vienna, Austria. Claimant [REDACTED 2] indicated that [REDACTED] was the accountant for the firm [REDACTED], an international textile production company with offices in Vienna and Prague, Czechoslovakia. The Claimants stated that the couple had three children: Claimant [REDACTED 2], who was born on 31 December 1917 in Vienna; [REDACTED] (Claimant [REDACTED 1]’s father), who was born on 1 May 1910 in Vienna, and passed away on 26 September 1996 in San Francisco, California; and [REDACTED] (or [REDACTED]) (Claimant [REDACTED 3]’s late husband), who was born on 5 October 1911 in Vienna and passed away on 27 August 1992 in Castelcrag, Australia. According to the Claimants, the Account Owner

resided at Schwarzenbergstrasse 3 in Vienna I until 1940. The Claimants further indicated that the Account Owner, who was Jewish, fled from Austria to the United States in the spring of 1940, after a request to leave Austria, which was submitted on 29 August 1938 by her and her daughter Claimant [REDACTED 2], was rejected. The Claimants indicated that the Account Owner passed away on 20 April 1978 in Seattle, Washington. The Claimants also indicated that [REDACTED], Auguste Goldschmid's husband, was taken from his home on 30 May 1938 by the Nazis to Dachau, and was transferred in September 1938 to Buchenwald, where he perished on 26 December 1938. The Claimants stated that Auguste Goldschmid sent money to her husband while in Dachau and later in Buchenwald in an attempt to bring about his release. The Claimants submitted a copy of a postcard, dated 19 July 1938, which was sent by [REDACTED] from Dachau to his wife at Schwarzenbergstrasse 3 in Vienna I, in which he thanked her for a letter and for the money sent; and a copy of another postcard, dated 23 October 1938, which was sent by [REDACTED] from Buchenwald to his wife indicating receipt of the money sent. In support of their claims, the Claimants provided numerous documents, including their relative's birth, marriage, and death certificates.

Claimant [REDACTED 1] submitted her birth certificate, indicating that she is the daughter of [REDACTED]; her father's birth certificate, indicating that he was the son of Auguste Goldschmid; and Auguste Goldschmid's American passport, indicating that she was accompanied by her grandchild [REDACTED], and bearing their photographs. Claimant [REDACTED 1] also submitted her father's will, indicating that his property was to be shared between both of his daughters, [REDACTED 1] and [REDACTED]. Claimant [REDACTED 1] stated that she was born on 22 April 1945 in Shelton, Washington. Claimant [REDACTED 1] is representing her sister, [REDACTED], who was born on 21 October 1947 in Shelton.

Claimant [REDACTED 2] submitted the request to leave Austria rejected by the Nazi authorities, which indicates her and her parents' names, as well as other immigration documents, indicating she is the daughter of Auguste Goldschmid.

Claimant [REDACTED 3] submitted her marriage certificate, indicating that she was the wife of [REDACTED], who was born in Vienna to [REDACTED] and Auguste Wolf; and her husband's birth and death certificates, indicating his parent's names. Claimant [REDACTED 3] stated that she was born on 13 July 1917 in Mosonmagyaróvár, Hungary.

Information Available in the Bank's Records

The Bank's records consist of lists of account owners. According to these records, the Account Owner was Mrs. (*Frau*) Auguste Goldschmid from Vienna, Austria. The Bank's records indicate that the Account Owner held a demand deposit account, numbered 292.012, which was opened on an unknown date but prior to April 1937, and a custody account, numbered 271644. The records further indicate that the demand deposit account was suspended for an unknown period of time, and that on 1 January 1988 the amount in the account was 870.20 Swiss Francs. 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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there

was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Auguste Goldschmid, née Wolf. These records include an Austrian census form for Auguste Goldschmid, numbered 05261, and dated 14 July 1938 in Vienna, Austria. These records indicate that Auguste Goldschmid was Jewish, that she was born on 11 June 1888 and that she was married to [REDACTED], who was also Jewish, and who, at the time the census form was signed, had been incarcerated by the Nazis for six weeks. The records show that Auguste and [REDACTED] Goldschmid resided at Schwarzenbergstrasse 3 in Vienna I. The records also show that Auguste Goldschmid owned real estate in Vienna worth approximately 221,208.00 Reichsmarks, stocks and bonds worth 123,799.00 Reichsmarks (1939 value) and other assets with a total value of 500,884.00 Reichsmarks, and that she was forced to pay "flight tax" (*Reichsfluchtsteuer*) in the amount of 125,221.00 Reichsmarks. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the four claims of the Claimants in one proceeding.

Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their relative's name and city of residence match the published name and city of residence of the Account Owner. The Claimants indicated that their relative was married, which matches unpublished information about the Account Owner's marital status contained in the Bank's records. Based on the information and documentation provided by the Claimants, including their relative's birth, marriage, and death certificates, all of which also match the information available from the Austrian State Archives, the CRT finds it plausible that the Claimants' relative and the Account Owner are the same person. Furthermore, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and resided in Vienna

until 1940, when she managed to escape to the United States. The Claimants further indicated that the Account Owner's husband was taken from his home on 30 May 1938 by the Nazis to Dachau, and was transferred in September 1938 to Buchenwald, where he perished on 26 December 1938.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner. Claimant [REDACTED 1] indicated she is the grandchild of the Account Owner by submitting her birth certificate, indicating that she is the daughter of [REDACTED]; her father's birth certificate, indicating that he was the son of Auguste Goldschmid; and Auguste Goldschmid's American passport, indicating that she was accompanied by her grandchild [REDACTED 1] and bearing their photograph. Claimant [REDACTED 1] also submitted her father's will, indicating that his property is to be shared between both of his daughters, [REDACTED 1] and [REDACTED].

Claimant [REDACTED 2] indicated she is the daughter of the Account Owner by submitting the request rejected by the Nazi authorities to leave Austria, indicating her own and her parents' names; and other immigration documents indicating she is the daughter of Auguste Goldschmid.

Claimant [REDACTED 3] indicated she is the daughter-in-law of the Account Owner by submitting her marriage certificate, indicating she was the wife of [REDACTED], who was born in Vienna, Austria, to [REDACTED] and Auguste Wolf; and her husband's birth and death certificates, indicating his parent's names. But for the Claimants and the represented parties, 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 Owners' husband was interned first in Dachau and then in Birkenau, where he was killed; that demand deposit account remained open until at least 1988; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners 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 (b), (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was Claimant [REDACTED 1]'s grandmother, Claimant [REDACTED 2]'s mother and Claimant [REDACTED 3]'s mother-in-law, and those relationships justify an Award. Finally, the CRT has determined that it is

plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. With regard to the demand deposit account, the Bank's records indicate that the value of the account was 870.20 Swiss Francs as of 1 January 1988. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. With regard to the custody 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. Accordingly, the total historic value of the two accounts was 15,140.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount of 181,680.00 Swiss Francs.

Division of the Award

According to Article 23(1)(c) of the Rules, if the 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. Moreover, according to Article 23(1)(f) of the Rules, if a child of the Account Owner is deceased and none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner. Accordingly, Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3] are each entitled to one-third of the total Award amount, and [REDACTED], whom Claimant [REDACTED 1] is representing in these proceedings, is entitled to receive one-half of any payment made to Claimant [REDACTED 1].

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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
June 23, 2003