

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants Gerson Goldschmidt
and Cecile Goldschmidt

in re Accounts of Gerson Goldschmidt and Cecile Goldschmidt

Claim Numbers: 221626/AV; 222312/AV

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Gerson Goldschmidt (“Claimant Gerson Goldschmidt”) to the unpublished accounts of Gerson Goldschmidt (“Account Owner Gerson Goldschmidt”) and the claim of Cecile Goldschmidt, née Schindelheim, (“Claimant Cecile Goldschmidt”) (together the “Claimants”) to the unpublished account of Cecile Goldschmidt (“Account Owner Cecile Goldschmidt”) (together the “Account Owners”), both at the Bern branch of the [REDACTED] (“Bank I”).

All awards are published. Where claimants have not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimants

Claimant Gerson Goldschmidt

Claimant Gerson Goldschmidt, who is Claimant Cecile Goldschmidt’s husband, submitted a Claim Form identifying Account Owner Gerson Goldschmidt as himself, Gerson Goldschmidt, who was born on 8 June 1921 in Lübeck, Germany, and was married to Claimant Cecile Goldschmidt on 13 October 1944 in Gelterkinden, Switzerland.

Claimant Gerson Goldschmidt submitted his autobiography, which details his experiences during the Second World War. According to the book, Claimant Gerson Goldschmidt’s family, including his parents, Neumann and Myriam Goldschmidt, and his sister, Ruth Goldschmidt, fled from Lübeck to Antwerp, Belgium in March 1933. The book states that just after Belgium was invaded by Nazi Germany on 10 May 1940, Claimant Gerson Goldschmidt was arrested and eventually detained in a concentration camp in Saint Cyprien, France. The book explains that while Claimant Gerson Goldschmidt was originally detained as a German national, he remained in the concentration camp after France surrendered to Nazi Germany because he was Jewish. The book further states that Claimant Gerson Goldschmidt was transferred in the fall of 1940 to

the concentration camp in Gurs, France, and then one year later to a work camp in Saint Julien, France. According to the book, Claimant Gerson Goldschmidt secured his release from this camp in March 1942 and went to Lyon, France. The book states that after several attempts to escape from France, Claimant Gerson Goldschmidt crossed the border into Switzerland in the beginning of October 1942. The book indicates that Claimant Gerson Goldschmidt was placed in several refugee camps in Switzerland until he was repatriated to Belgium at the end of October 1945.

Claimant Gerson Goldschmidt further submitted his Swiss refugee questionnaire, indicating that he was born on 8 June 1921, that he was Jewish, that he was in France from 12 May 1940 until 8 October 1942, and that he was placed in refugee camps in Switzerland, including camps in Martigny, Switzerland and Büren, Switzerland. Claimant Gerson Goldschmidt submitted additional documents demonstrating that he owned accounts at Bank I, which are described in detail below.

Claimant Cecile Goldschmidt

Claimant Cecile Goldschmidt, who is Claimant Gerson Goldschmidt's wife, submitted a Claim Form identifying Account Owner Cecile Goldschmidt as herself, Cecile Goldschmidt, née Schindelheim, who was born on 9 March 1924 in Ranizow, Poland, and was married to Claimant Gerson Goldschmidt on 13 October 1944 in Gelterkinden. Claimant Cecile Goldschmidt, who is Jewish, stated that she resided in Belgium from 1925 until August 1942, when she fled to France, and that she fled from France to Switzerland in October 1942. Claimant Cecile Goldschmidt indicated that she was placed in various refugee camps in Switzerland until September 1945, when she was repatriated to Belgium.

Claimant Cecile Goldschmidt submitted her Swiss refugee questionnaire, indicating that she was born on 9 March 1924, that she is Jewish, and that she entered Switzerland on 10 October 1942. Claimant Cecile Goldschmidt submitted additional documents demonstrating that she owned an account at Bank I, which are described in detail below.

Information Available in Bank I's Records

The CRT notes that 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 report an account belonging to Gerson Goldschmidt or Cecile Goldschmidt during their investigation of Bank I. The documents demonstrating the existence of the accounts were submitted by the Claimants and are detailed below.

Account Owner Gerson Goldschmidt

Claimant Gerson Goldschmidt submitted several documents concerning his refugee accounts at Bank I.¹ These documents include correspondence between Gerson Goldschmidt and the Police Department in Bern, Switzerland, correspondence between Gerson Goldschmidt and officials for the territorial district of Martigny, Switzerland, a bill for medical costs, and a receipt from Bank I. According to these records, Account Owner Gerson Goldschmidt was born on 8 June 1921, and was placed in a refugee camp in Ampferrhöhe, Switzerland as of 7 February 1943, the “Rovina” refugee camp in St. Niklaus, Switzerland, as of 21 April 1944, and a refugee camp in Le Pont, Switzerland, as of 3 May 1945. These documents further indicate that Account Owner Gerson Goldschmidt held a demand deposit account and a custody account (“*Depot*”), numbered 327 Fl, at Bank I.²

These documents include a letter from Account Owner Gerson Goldschmidt to the Swiss police authorities, dated 7 February 1943, indicating that on 9 October 1942, Account Owner Gerson Goldschmidt presented for deposit 9,000.00 French Francs (“FF”), three lots of industrial diamonds, and seven diamond-cutting tools. According to this letter, the diamonds and the tools had a combined minimum value of 1,500.00 Swiss Francs (“SF”). At the bottom of this letter is a typewritten note, added by Swiss police officials, indicating that Gerson Goldschmidt’s jewels were sent to the Police Office for the Second Territorial District on 18 December 1942.

These documents further include a letter from Account Owner Gerson Goldschmidt to the Police Department in Bern, Switzerland, dated 17 June 1943, stating his understanding that his industrial diamonds were sent to the Police Office for the Second Territorial District, expressing his interest in selling these diamonds to the Swiss authorities, and requesting from them a price offer for the diamonds. At the bottom of this letter are faint handwritten notes, which appear to indicate that commercial dealing in industrial diamonds had been forbidden.³

¹ The CRT notes that pursuant to the Swiss Federal Council’s Decree of 12 March 1943, the assets of all refugees who had entered Switzerland after 1 August 1942 were confiscated by the Swiss Federal authorities and held for them in accounts at Bank I, which accounts were managed by the Swiss police authorities. See Independent Commission of Experts, Switzerland - Second World War, National Socialism, and the Second World War: Final Report, at 158-59 (2002) (hereinafter “Bergier Final Report”). See also *In re Accounts of Emma Kuckel-Pipersberg* (approved by the Court on 11 April 2005).

² The CRT notes that “*Depot*” may refer specifically to a custody account or generally to any deposit. The CRT further notes that under the management scheme for refugee accounts, cash was deposited on current accounts and deposit facilities were created for valuables. See Bergier Final Report, at 159. See also *In re Accounts of Emma Kuckel-Pipersberg*. Therefore, the CRT concludes that the Account Owner’s account, “*Depot 327 Fl*,” was a custody account containing his valuables.

³ The CRT notes that pursuant to a regulation promulgated on 19 November 1940, the purchase and sale of industrial diamonds in Switzerland were prohibited without permission from the *Kriegs- Industrie- Arbeits- Amt* (“Department of War, Industry, and Labor”). *Dritter Bericht des Bundesrates an die Bundesversammlung über die auf Grund der ausserordentlichen Vollmachten ergriffenen Massnahmen*, Bundesblatt, Band 1, Heft 47, at 37-38 (19 November 1940). See also *Achter Bericht des Bundesrates an die Bundesversammlung über die auf Grund der ausserordentlichen Vollmachten ergriffenen Massnahmen*, Bundesblatt, Band 1, Heft 13, at 388-89 (7 May 1943) (explaining that refugee assets were held under governmental administration in part so as to prevent refugees from dealing commercially in illegal goods, such as industrial diamonds (“[S]oll die Flüchtlinge auch daran hindern, ihre Vermögen . . . zu unerlaubter Geschäftstätigkeit zu benutzen . . . oder mit ihren Wertsachen (Bijouteriewaren, Industriediamanten usw.) Handel zu treiben.”)).

These documents include two additional letters from Account Owner Gerson Goldschmidt to the Bern Police Department, dated 7 September 1943 and 21 March 1944, indicating that he had not yet received any communication from Bank I regarding the sale of his industrial diamonds, and requesting the police officials to inform him of whether the transfer has gone through. Finally, these documents include a letter from the chief of police in Bern to Account Owner Gerson Goldschmidt, dated 3 May 1945, indicating that the balance of his deposit with Bank I would be remitted to him on the day of his repatriation, with the deposit costs deducted. There is no indication in these records that the diamonds in Account Owner Gerson Goldschmidt's custody account were sold by Bank I, nor is there any indication that Account Owner Gerson Goldschmidt was credited with the value of these diamonds. There is no evidence in these records that Account Owner Gerson Goldschmidt closed the custody account and received the proceeds himself.

With respect to Account Owner Gerson Goldschmidt's demand deposit account, the records include a receipt from Bank I, dated 11 May 1945, indicating that Bank I closed Account Owner Gerson Goldschmidt's demand deposit account and remitted the balance of the account to Account Owner Gerson Goldschmidt in the amount of SF 28.50.

Account Owner Cecile Goldschmidt

Claimant Cecile Goldschmidt submitted several documents concerning her refugee account at Bank I. These documents include an account statement, correspondence between Cecile Goldschmidt and the Police Department in Bern, and correspondence between the chief of police in Bern and the Swiss Department of the Exterior. According to these records, Account Owner Cecile Goldschmidt, née Schindelheim, was born on 9 March 1924, and resided at the Tivoli internment camp in Luzern, Switzerland, as of 16 August 1944 and at the "Victoria" refugee camp in Corbeyrier, Switzerland, as of 24 July 1945. These records further indicate that Account Owner Cecile Goldschmidt held a demand deposit account.

These records indicate that Account Owner Cecile Goldschmidt's demand deposit account had a balance of zero as of 5 June 1945. The records further include a letter from Account Owner Cecile Goldschmidt to the Police Department in Bern, dated 24 July 1945, indicating that Account Owner Cecile Goldschmidt's cousin, Adolf Schindelheim, who resided in New York, deposited 150.00 United States Dollars ("US \$") with the Zurich branch of the *Schweizerische Bankgesellschaft* ("Bank II") for Account Owner Cecile Goldschmidt's benefit. The records further include a letter from the Police Department in Bern to the Swiss Department of the Exterior, confirming that US \$150.00 was deposited with Bank II for the benefit of Account Owner Cecile Goldschmidt, and indicates that according to Swiss law, this amount should be transferred to Bank I, which administered all refugee assets. Bank I's records further include a second letter from Account Owner Cecile Goldschmidt to the Police Department in Bern, dated 15 August 1945, confirming that the US \$150.00 had been converted into the amount of SF 633.85 and transferred by Bank II to Bank I for Account Owner Cecile Goldschmidt's benefit. In this letter, Account Owner Cecile Goldschmidt requested the Police Department to turn over these proceeds to her, in order to prepare for her return to Belgium. Finally, the records include a letter, dated 10 October 1945, from the chief of police in Bern to the Swiss Department of the

Exterior, regarding Account Owner Cecile Goldschmidt's claim to SF 851.00 deposited at Bank I. The letter indicates that the Police Department rejected Account Owner Cecile Goldschmidt's claim, because she had already left Switzerland on 24 September 1945. There is no indication in these records that Account Owner Cecile Goldschmidt received the proceeds of the 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 two claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Claimant Gerson Goldschmidt's name and date of birth match the name and date of birth of Account Owner Gerson Goldschmidt, and Claimant Cecile Goldschmidt's name and date of birth matches the name and date of birth of Account Owner Cecile Goldschmidt. The CRT notes that the Claimants themselves submitted the documents evidencing their account ownership.

In support of his claim, Claimant Gerson Goldschmidt submitted documents, including his autobiography and his Swiss refugee questionnaire, identifying him as Gerson Goldschmidt and indicating that he was born on 8 June 1921, providing independent verification that the person who is claimed to be Account Owner Gerson Goldschmidt had the same name and date of birth as the name and date of birth of Account Owner Gerson Goldschmidt. Moreover, these documents indicate that Claimant Gerson Goldschmidt temporarily resided in refugee camps in Switzerland, including camps in Martigny and Büren, which is consistent with recorded information about Account Owner Gerson Goldschmidt. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Gerson Goldschmidt, and indicates that his date of birth was 8 June 1921, that his nationality was German, and that he was a refugee in Switzerland, which matches the information about Account Owner Gerson Goldschmidt provided by Claimant Gerson Goldschmidt. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

In support of her claim, Claimant Cecile Goldschmidt submitted documents, including her Swiss refugee questionnaire, identifying her as Cecile Goldschmidt, née Schindelheim, and indicating that she was born on 9 March 1924, providing independent verification that the person who is claimed to be Account Owner Cecile Goldschmidt had the same name and date of birth as the name and date of birth of Account Owner Cecile Goldschmidt. Additionally, the CRT notes that the CRT's database of victims includes a person named Cecile Goldschmidt, and indicates that her date of birth was 9 March 1924, that her nationality was Polish, and that she was a refugee in Switzerland, which matches the information about Account Owner Cecile Goldschmidt provided by Claimant Cecile Goldschmidt.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that they were Victims of Nazi Persecution. The Claimants stated that they are Jewish. Claimant Gerson Goldschmidt submitted his autobiography and Swiss refugee questionnaire, which indicate that he fled from Nazi Germany to Belgium in March 1933, that he was in France from 12 May 1940 until 8 October 1942, and that he was detained in concentration camps in Saint Cyprien, Gurs, and Saint Julien. Claimant Cecile Goldschmidt stated that she fled from Belgium to France in August 1942, and from France to Switzerland in October 1942. As noted above, persons named Gerson Goldschmidt and Cecile Goldschmidt were included in the CRT's database of victims.

The Claimants' Relationships to the Account Owners

Claimant Gerson Goldschmidt has plausibly demonstrated that he is Account Owner Gerson Goldschmidt, and Claimant Cecile Goldschmidt has plausibly demonstrated that she is Account Owner Cecile Goldschmidt.

The Issue of Who Received the Proceeds

With respect to Account Owner Gerson Goldschmidt's demand deposit account, the records indicate that the account was closed on 11 May 1945 and the balance of SF 28.50 was paid to Account Owner Gerson Goldschmidt. Therefore, the CRT concludes that Account Owner Gerson Goldschmidt received the proceeds of the claimed demand deposit account. The CRT notes that, according to the documents submitted by Claimant Gerson Goldschmidt, FF 9,000.00, or SF 450.00,⁴ was deposited into the account on 9 October 1942. The CRT concludes that the difference between the original deposit and the balance returned to Account Owner Gerson Goldschmidt was due to charges incurred during the course of his stay in Switzerland.

With respect to Account Owner Gerson Goldschmidt's custody account, given that owners of refugee custody accounts had no power of disposal over their accounts;⁵ that there is no record of the payment of Account Owner Gerson Goldschmidt's custody account to him, even though each transaction was to be recorded most accurately and Account Owner Gerson Goldschmidt had to sign a receipt in case of payment;⁶ that there is no record of the sale of the industrial diamonds in Account Owner Gerson Goldschmidt's custody account, nor any record of the transfer of the value of the contents of Account Owner Gerson Goldschmidt's custody account to him; that pursuant to regulation promulgated on 19 November 1940, the sale of industrial diamonds in Switzerland was prohibited without permission from the Swiss Department of War, Industry, and

⁴ The CRT uses official exchange rates when converting the amounts in foreign currencies into Swiss Francs.

⁵ Unabhängige Expertenkommission Schweiz - Zweiter Weltkrieg: Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus, UEK Band 17, Chronos, Zürich, 2001; pp. 295, 315 (hereinafter "Bergier Refugee Report"). See also *In re Accounts of Emma Kuckel-Pipersberg*.

⁶ Jung, Joseph (ed.): Zwischen Bundeshaus und Paradeplatz - Die Banken der Credit Suisse Group im Zweiten Weltkrieg, NZZ Verlag, Zürich, 2001; pp. 664, 672 (hereinafter "Jung"). See also *In re Accounts of Emma Kuckel-Pipersberg*.

Labor (*Kriegs- Industrie- Arbeits- Amt*);⁷ that a significant number of refugee custody accounts could not be retrieved by account owners;⁸ that complaints of refugees mostly concerned the fact that their deposited assets were not returned;⁹ that Account Owner Gerson Goldschmidt would not have been able to obtain information about his account after the Second World War from Bank I 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Gerson Goldschmidt.

With respect to Account Owner Cecile Goldschmidt's demand deposit account, given that the records indicate that on 10 October 1945, the Police Department rejected Account Owner Cecile Goldschmidt's claim to SF 851.00 deposited at Bank I because she had already left Switzerland; that there is no record of the payment of these account proceeds to Account Owner Cecile Goldschmidt; that Account Owner Cecile Goldschmidt would not have been able to obtain information about her account after the Second World War from Bank I 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 (e), (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 Account Owner Cecile Goldschmidt.

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, Claimant Gerson Goldschmidt has plausibly demonstrated that he is Account Owner Gerson Goldschmidt, and Claimant Cecile Goldschmidt has plausibly demonstrated that she is Account Owner Cecile Goldschmidt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that Account Owner Gerson Goldschmidt did not receive the proceeds of the claimed custody account, and that Account Owner Cecile Goldschmidt did not receive the proceeds of the claimed demand deposit account.

Amount of the Award

For purposes of this Award, Account Owner Gerson Goldschmidt held one custody account and Account Owner Cecile Goldschmidt held one demand deposit account.

⁷ *Dritter Bericht des Bundesrates an die Bundesversammlung über die auf Grund der ausserordentlichen Vollmachten ergriffenen Massnahmen*, Bundesblatt, Band 1, Heft 47, at 37-38 (19 November 1940).

⁸ Bergier Refugee Report. pp. 312 ff., 309. See also *In re Accounts of Emma Kuckel-Pipersberg*.

⁹ Jung, p. 704. See also *In re Accounts of Emma Kuckel-Pipersberg*.

With respect to Account Owner Gerson Goldschmidt, the records indicate that he deposited FF 9,000.00, or SF 450.00, and diamonds and tools valued at SF 1,500.00 with Bank I. The CRT notes that under the management scheme for refugee accounts, cash was deposited on current accounts and deposit facilities were created for valuables.¹⁰ Consequently, the CRT concludes that the cash was deposited in Account Owner Gerson Goldschmidt's demand deposit account, that Account Owner Gerson Goldschmidt's custody account contained the diamonds and tools only. According to Account Owner Gerson Goldschmidt's letter dated 7 February 1943, the diamonds and the tools had a combined minimum value of 1,500.00. The CRT notes that Account Owner Gerson Goldschmidt's letter did not specify the *actual* value of the diamonds and tools, only their combined *minimum* value. Accordingly, the CRT treats this account as an account of unknown value. According 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. 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 162,500.00 for this account.

With respect to Account Owner Cecile Goldschmidt, the records indicate that her account had a balance of SF 851.00 as of 10 October 1945, at which time her claim for her assets was rejected. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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, for an award amount of SF 26,750.00 for this account.

Consequently, the total award amount is SF 189,250.00.

Division of the Award

In this case, Claimant Gerson Goldschmidt is Account Owner Gerson Goldschmidt and Claimant Cecile Goldschmidt is Account Owner Cecile Goldschmidt. Accordingly, Claimant Gerson Goldschmidt is entitled to the entire award amount pertaining to Account Owner Gerson Goldschmidt's account, and Claimant Cecile Goldschmidt is entitled to the entire award amount pertaining to Account Owner Cecile Goldschmidt's account.

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).

¹⁰ Bergier Final Report, at 159.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
23 June 2006