

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Joseph Ernst Eduard Goldschmidt
also acting on behalf of Miriam Kaufmann

in re Accounts of Kurt Goldschmidt and Dr. Edith Goldschmidt

Claim Number: 215077/MBC

Award Amount: 1,271,250.00 Swiss Francs

This Certified Award is based upon the claim of Joseph Ernst Eduard Goldschmidt (the “Claimant”) to the accounts of Kurt Goldschmidt (“Account Owner Kurt Goldschmidt”) and Dr. Edith Goldschmidt (“Account Owner Edith Goldschmidt”) (together the “Account Owners”) at the [REDACTED] (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 Owners as his parents, Kurt Goldschmidt and Edith Goldschmidt, née Hohenstein, who were born in Berlin, Germany on 21 August 1889 and 6 November 1897, respectively. The Claimant stated that his father was an attorney and his mother was a medical doctor, and that they both worked in Berlin until 1933, when the Nazis prohibited them from practicing their respective careers. The Claimant explained that his parents and family, who were Jewish, fled to Hilversum, The Netherlands in 1934. The Claimant also explained that while his father went to Palestine in 1935, his mother returned to Berlin with her two children because she needed to be with her parents, who were later sent to the Theresienstadt concentration camp and from there to Auschwitz, where they both perished on unknown dates. The Claimant further explained that he stayed with his mother in Berlin until April 1939, when he was sent to Palestine to reunite with his father; that in the summer of 1938 his sister was sent to live with a maternal great-aunt in Brussels, Belgium, where she stayed until the summer of 1939; and that his mother and sister fled Germany for Palestine in November 1939. The Claimant stated that in Palestine, his father worked as a storekeeper in a British army camp, and his mother worked as a dressmaker because the British authorities did not allow her to practice medicine. The Claimant added that his father passed away on 3 January 1958 and his mother passed away on 14 January 1966 in Tel Aviv, Israel.

In support of his claim, the Claimant submitted a detailed family tree; his birth certificate identifying his parents as Kurt and Edith Goldschmidt; his parents' marriage certificate, stating their names, their year of marriage as 1925, and identifying his mother as a doctor and his father as an attorney; his father's death certificate; and a certificate of inheritance of his father's estate, which indicates the Claimant, his mother and sister as his father's heirs. The Claimant indicated that he was born on 20 July 1930 in Berlin. The Claimant is representing his sister, Miriam Kaufmann, née Goldschmidt, who was born on 27 December 1926, also in Berlin.

Information Available in the Bank's Records

The Bank's records consist of opening cards and printouts from the Bank's database.

Account Owner Kurt Goldschmidt's Accounts

According to these records, Account Owner Kurt Goldschmidt was an attorney who resided in Berlin, Germany and Sloodorp, The Netherlands. The Bank's records indicate that Account Owner Kurt Goldschmidt held two demand deposit accounts, which were closed on 11 July 1933 and 11 May 1935. The Bank's records also indicate that Account Owner Kurt Goldschmidt held five custody accounts, three of which were numbered and indicate their dates of closures: 18440, closed on 11 July 1933; 12161, closed on 30 March 1935; and 12145, closed on 9 May 1935. The Bank's records do not indicate the dates of closures for the two other custody accounts, nor do the records indicate to whom the accounts were closed, nor the value of these accounts on the dates of their respective closures. 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 the remaining two custody 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 his heirs closed the accounts and received the proceeds themselves.

Account Owner Edith Goldschmidt's Accounts

The Bank's records indicate that Account Owner Edith Goldschmidt resided in Berlin, and that she held three demand deposit accounts, one which was closed on 12 May 1933 and one other which was closed on 22 September 1934. The Bank's records do not indicate when the third demand deposit account was closed. The Bank's records also indicate that Account Owner Edith Goldschmidt held two custody accounts, one numbered L2441, which was closed on 12 May 1933, and the other numbered 11587, which was closed on 22 September 1934. The Bank's records do not indicate to whom the accounts were closed, nor do these records indicate the value of these accounts on the dates of their respective closures. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the ICEP Investigation did not find the remaining demand deposit account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors

indicated that there was no evidence of activity on this account 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.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His parents' names and country of residence match the published names and country of residence of the Account Owners. The Claimant identified his parents' city of residence as Berlin, which matches unpublished information about the Account Owners contained in the Bank's records. The Claimant also stated that his parents resided in The Netherlands, which matches unpublished information about Account Owner Kurt Goldschmidt contained in the Bank's records. Furthermore, the Claimant identified his father's profession and his mother's title, which also matches unpublished information contained in the Bank's records. In support of his claim, the Claimant submitted a detailed family tree; his birth certificate identifying his parents as Kurt and Edith Goldschmidt; his parents' marriage certificate, stating their names and identifying his mother as a doctor and his father as an attorney; his father's death certificate; and a certificate of inheritance of his father's estate, which indicates the Claimant, his mother and sister as his father's heirs. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different profession or a different country of residence than the profession or country of residence of the Account Owners. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

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 and that they fled Germany to The Netherlands and later went to Palestine.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting documents including his birth certificate identifying his parents as Kurt and Edith Goldschmidt. There is no information to indicate that the Account Owners have other surviving heirs other than the Claimant and his sister, whom the Claimant is representing in these proceedings.

The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that the Account Owners were prohibited from practicing their professions in 1933; that the Account Owners were forced to flee Nazi Germany, and would not have been able to repatriate their accounts to Germany without

their confiscation; that there is no record of the payment of the Account Owners' accounts to them or their heirs; that the Account Owners or 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 (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C¹ (in this case Appendix C applies to all of the accounts except the accounts closed on unknown dates, the two custody accounts and the one demand deposit account), 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 the 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 Owners were his parents, and this relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Kurt Goldschmidt held two demand deposit accounts and five custody accounts, and Account Owner Edith Goldschmidt held three demand deposit accounts and two custody accounts. 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 2,140.00 Swiss Francs and the average value of a custody account was 13,000.00 Swiss Francs, which produces a historical award amount of 101,700.00 Swiss Francs. The current value of these amounts is calculated by multiplying them by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 1,271,250.00 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. In this case, the Claimant is representing Miriam Kaufmann, née Goldschmidt, his sister. Accordingly, the Claimant and his sister are each entitled to one-half of the total award amount.

¹ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

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
8 April 2004