

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
represented by Walter Figel

## **in re Accounts of Ludwig Goldberger**

Claim Number: 401974/MBC

Award Amount: 242,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Ludwig Goldberger (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 a Claim Form identifying the Account Owner as her father, Dr. Ludwig Goldberger, who was born on 31 July 1902 in Kismarton, Hungary (now Eisenstadt, Austria), and was married to Dr. [REDACTED], née [REDACTED], on 28 December 1938 in Zurich, Switzerland. According to information provided by the Claimant, her father was the son of [REDACTED] and [REDACTED], née [REDACTED]. The Claimant indicated that her father, who was Jewish, was a lawyer in Austria, and that he was listed as a German citizen on his marriage certificate and as an Austrian citizen on his death certificate. Finally, the Claimant indicated that her parents fled to Bolivia by 1943, where they had their only child, the Claimant.

The Claimant submitted the following documents in support of her claim: (1) a copy of her father’s *Familien-Büchlein* (family book), indicating that Dr. *jur.* (doctor of law) Ludwig Goldberger, a German citizen born in Kismarton on 31 July 1902, married Dr. *jur.* [REDACTED], a former German resident born in Vienna, Austria, on 15 November 1908, on 28 December 1938 in Zurich; (2) a copy of her father’s death certificate, indicating that Ludwig Goldberger, an Austrian citizen, died on 21 December 1950 in Cochabamba, Bolivia; (3) a copy of her mother’s death certificate, indicating that [REDACTED], née [REDACTED], an Austrian citizen, died on 8 September 1985 in La Paz, Bolivia, and that she had a daughter named [REDACTED]; and (4) a copy of her own birth certificate, indicating that she was born to [REDACTED] and [REDACTED] in Cochabamba on 8 September 1943.

The Claimant indicated that she was born on 8 September 1943 in Cochabamba.

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

The Bank's record consists of a customer card. According to this record, the Account Owner was Dr. Ludwig Goldberger, an attorney, who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held three demand deposit accounts and one custody account.

The Bank's record indicates that the custody account, numbered L 52438, was opened on 14 June 1934 and closed on 23 March 1938. The Bank's record further indicates that one demand deposit account was opened on 30 June 1937 and closed on 20 March 1938. According to this record, the other two demand deposit accounts were opened on 18 July 1936, and one of them was closed on 10 April 1938 and the second one was closed on 31 December 1938. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts 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, 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. Ludwig Goldberger, numbered 46477. These records include Ludwig Goldberger's asset declaration and official correspondence. They indicate that Ludwig Goldberger, who was a German citizen, was born on 31 July 1902 in Kismarton, and that he was an attorney residing at Singerstrasse 6 and then at Hauptstrasse 54 in Vienna XI. The asset declaration was filed on 12 August 1938 and signed by Ludwig Goldberger's attorney, Dr. Siegfried Norbert Rumpler, who noted that he was acting on behalf of Ludwig Goldberger, who was being held in custody at the Dachau concentration camp since 28 May 1938. The records also contain a letter from Ludwig Goldberger to the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle*), dated 8 December 1938 in Vienna, in which he, having been released from custody on 26 November 1938, augmented his asset declaration. In his letter, Ludwig Goldberger noted that his law practice had been liquidated and assets had been expended to cover running expenses, including his tax liabilities. The letter also requests that the *Vermögensverkehrsstelle* forward a copy of his letter to the relevant tax office as that office urgently required the information in order to be able to issue him certificate freeing him to leave the country (*Unbedenklichkeitserklärung*), which was generally required of all emigrants before an exit permit was issued. The file shows that a copy was duly received by the tax authorities on 12 December 1938. Finally, the files include a Gestapo notification, dated 21 March 1941, stating that the German citizenship of the emigrant Ludwig Goldberger was being withdrawn and that his remaining assets had been confiscated. These records make no mention of assets held in a Swiss bank account.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's father's name matches the published name of the Account Owner. The Claimant identified the Account Owner's professional title and his city and country of residence, which matches unpublished information about the Account Owner contained in the Bank's record. In addition, information contained in the 1938 Census records matches both the information provided by the Claimant as well as information contained in the Bank's record.

In support of her claim, the Claimant submitted documents, including a copy of her father's *Familien-Büchlein* (family book), a copy of her father's death certificate, and a copy of her own birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and professional title and was a citizen of the same country recorded in the Bank's record as the name, title, and country of residence of the Account Owner. The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence than the country of residence of 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 and that he fled his residence and law practice in Vienna after the Nazi incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). The Account Owner's 1938 Census records also indicate that he was interned in Dachau between May and November 1938.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's father. These documents include (1) a copy of her father's *Familien-Büchlein* (family book), indicating that Ludwig Goldberger married [REDACTED]; (2) a copy of her mother's death certificate, indicating that [REDACTED], née [REDACTED], had a daughter named [REDACTED]; and (3) a copy of her own birth certificate, indicating that her parents were [REDACTED] and [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

The CRT notes that the Bank's record indicates that the custody account was closed on 23 March 1938, and that the demand deposit accounts were closed on 20 March 1938, 10 April 1938, and 31 December 1938. The CRT further notes that, according to documents contained in the Account Owner's 1938 Census file, the Account Owner was imprisoned in Dachau between 28 May 1938 and 26 November 1938. With regard to the three accounts closed in March and April

1938, given that the accounts were closed after the *Anschluss*, while the Account Owner remained in the German Reich; that the Account Owner was subsequently imprisoned for six months in Dachau, that the Bank's record does not indicate to whom the accounts were closed; and given that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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 accounts' proceeds were not paid to the Account Owner or his heirs.

With respect to the demand deposit account closed on 31 December 1938, the CRT notes that the Claimant submitted his parents' marriage certificate, which indicates that his father married his mother on 28 December 1938 in Zurich. Therefore, this account was closed when the Account Owner was outside Nazi-dominated territory. However, given that the Bank's record does not indicate to whom the account was closed, that after being interned in Dachau, the Account Owner fled his country of origin due to Nazi persecution, that the Account Owner may have had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that the Account Owner and his heirs would not have been able to obtain information about his accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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, 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 her 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 accounts.

#### Amount of the Award

In this case, the Account Owner held one custody account and three demand deposit 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 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 a custody account was 13,000.00 Swiss Francs (“SF”) and the average value of a demand deposit account was SF 2,140.00, for a combined average value of SF 19,420.00 for the four accounts at issue. 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 242,750.00.

### **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 her claim to determine whether there are additional Swiss bank accounts to which she 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  
7 June 2006