

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Account of Natalie Baczewski

Claim Number: 217944/RS

Original Award Amount: 156,000.00 Swiss Francs

Award Amendment Amount: 39,286.63 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Natalie Baczewski (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relative of the claimant other than the account owner, and the bank have been redacted.

Procedural History

On 26 November 2002, the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “November 2002 Award”). At the time of that award, the bank records available to the CRT did not contain information regarding the value of the awarded custody account. However, the Bank recently made available to the CRT additional information about this account, including detailed documentation on the portfolios held in the account. In this Award Amendment, the CRT adopts and amends its findings set out in the November 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

The November 2002 Award

In the November 2002 Award, the CRT determined that the Account Owner owned a custody account. The CRT further determined that the Claimant plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he made a

¹ On 26 November 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the account of Natalie Baczewski (the “November 2002 Award”), which is the subject of this Award Amendment.

plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her account, and that the Claimant was entitled to the entire award amount.

Finally, the CRT determined that the Bank's record did not indicate the value of the custody account, and therefore presumed that the value of the custody account was 13,000.00 Swiss Francs ("SF").

Information Available in the Bank's Record

As detailed in the November 2002 Award, the Bank's record indicates the name and city of residence of the Account Owner, and indicates that she was married. The record indicates that the Account Owner held one custody account, which was closed on 15 June 1939.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within the custody account.

These documents indicate that the original owner of the account was Dr. [REDACTED], a patent lawyer, who resided at Waltergasse 4, in Vienna, Austria. The documents further indicate that Dr. [REDACTED] had died, and that initially his unnamed heirs, and then his widow *Frau* (Mrs.) Natalie Baczewski, replaced him as the owner of the account. The records do not specifically indicate when Dr. [REDACTED] died, but the notation that he had died appears to be dated 14 February 1939.²

These documents also indicate that at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- 4.5% *Schuldverschreibungen des Deutschen Reichs 1938 zweite Ausgabe* bonds with a face value of 9,000.00 Reichsmark ("RM"), which were transferred to an unknown account, numbered 27130, on 12 June 1939; and
- 4.5% *Schuldverschreibungen des Deutschen Reichs 1938 zweite Ausgabe Bescheinigungen* bonds with a face value of RM 90.00, which were sent (*zugesandt*) out of the account on 29 March 1939.

² The CRT notes that the Claimant indicated in his Claim Form that the Account Owner, Natalie Baczewski, was married to Dr. [REDACTED], a patent lawyer, who died in September 1938, and that the couple had resided at 4 Waltergasse in Vienna. None of the above information was published 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").

The CRT's Analysis

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of the Claimant. The CRT previously determined in the November 2002 Award that the claim is admissible in accordance with Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), that the Claimant has plausibly demonstrated that he is related to the Account Owner, and that it is plausible that neither the Account Owner nor her heirs received the proceeds of her account.

Value of the account in the November 2002 Award

In the November 2002 Award, the Account Owner held one custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody account in November 2002, 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00.

Amount of the Award Amendment

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the face value of bonds not in default shall be awarded if the market value was below the face value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss.

According to the additional information from the Bank, the Account Owner held a custody account with the following securities:

- 4.5% *Schuldverschreibungen des Deutschen Reichs 1938 zweite Ausgabe* bonds with a face value of RM 9,000.00. These bonds were of good quality, and were trading at 98.75% on 12 June 1939.³ Therefore, these bonds shall be valued at their face value of RM 9,000.00, which was equivalent to SF 15,983.10;⁴ and
- 4.5% *Schuldverschreibungen des Deutschen Reichs 1938 zweite Ausgabe Bescheinigungen* bonds with a face value of RM 90.00. These bonds were of good quality, and were trading at 98.75% on 29 March 1939. Therefore, these bonds shall be valued at their face value of RM 90.00, which was equivalent to SF 159.83.⁵

The CRT notes that the Bank's records do not indicate who owned the account 27130, into which certain of the securities are shown to be transferred, and notes that this account number appears as the transfer destination for other, unrelated accounts. Even if this account was held by

³ The market value for this security was obtained from *Frankfurter Zeitung*, 13 June 1939.

⁴ The CRT uses official exchange rates when making currency conversions.

⁵ The market value for this security was obtained from *Frankfurter Zeitung*, 30 March 1939.

the respective owners of the accounts from which the securities originated, the records do not indicate when the accounts were closed, or the disposition of the securities contained within them. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

Therefore, the Bank's records indicate that the total value of the custody account in June 1938 was SF 16,142.93. The Article 29 value of SF 13,000.00, which was used in the November 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 3,142.93. The current value of this amount is determined by multiplying this difference by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total Award Amendment amount of SF 39,286.63.

Scope of the Award Amendment

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 Amendment

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

Claims Resolution Tribunal
11 August 2008