

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED]<sup>1</sup>

**in re Account of Siegmund Baer**

Claim Number: 205189/WT<sup>2</sup>

Original Award Amount: 162,500.00 Swiss Francs

Award Amendment Amount: 259,643.75 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Siegmund Baer (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 30 September 2003, the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “September 2003 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 September 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

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<sup>1</sup> On 30 September 2003, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the account of Siegmund Baer (the “September 2003 Award”), which is the subject of this Award Amendment.

<sup>2</sup> The Claimant submitted two additional claims, which are registered under the Claim Numbers 223007 and 212164. The CRT treated the claim to the account of Julius Levy in a separate decision. See *in re Account of Julius Levy* (approved on 17 March 2008). In a determination dated 19 December 2007, the CRT treated the claim to the accounts of Julius Guggenheimer and Albert Hesselbarth.

## The September 2003 Award

In the September 2003 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 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 his 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 Records

As detailed in the September 2003 Award, the Bank's record indicates the name and city of residence of the Account Owner. The record indicates that the Account Owner held a custody account, numbered L41217, which was closed on 28 June 1935.

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 at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- *8% Gd. Hyp. Pfdbr. Bayerische Hypotheken- & Wechselbank. München Reihe 20 von 1930* bonds with a face value of 25,000.00 German Reichsmark ("RM"), which were sent (*zugesandt*) to the *Dedibk. (Deutsche Bank-und Diskonto-Gesellschaft)* in Berlin on 26 June 1935;
- *25 Anaconda Copper Mining Co. Common shares a \$50.*— common shares with a face value of US\$ 50.00 per share, which were sold on 22 June 1935 (the actual repository for the shares is listed as the *Bankers Trust Company* in New York);
- *20 General Electric Company Common shares ohne Nennwert* common shares without face value, which were sold on 22 June 1935 (the actual repository for the shares is listed as *A. Iselin & Co.* in New York); and
- *4 Radio Corporation of America Common shares ohne Nennwert* common shares without face value, which were sold on 7 June 1935 (the actual repository for the shares is listed as *A. Iselin & Co.* in New York).

## 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 September 2003 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 his heirs received the proceeds of his account.

### Value of the Accounts in the September 2003 Award

In the September 2003 Award, the Account Owner held one custody account, numbered L41217.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody account in September 2003, 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. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owner held a custody account, numbered L41217, with the following securities:

- *8% Gd. Hyp. Pfdbbr. Bayerische Hypotheken- & Wechselbank. München Reihe 20 von 1930* bonds with a face value of RM 25,000.00. These bonds were of good quality and were trading at 98.00% when sent out of the account on 26 June 1935.<sup>3</sup> As the bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was RM 25,000.00, which was equivalent to SF 30,925.00;<sup>4</sup>
- *25 Anaconda Copper Mining Co. Common shares a \$50.*— common shares with a face value of US\$ 50.00 per share. These shares were trading at US\$ 14.9375 per share when sold on 22 June 1935, for a total market value of US\$ 373.44, which was equivalent to SF 1,150.19;<sup>5</sup>

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<sup>3</sup> The market value for this security was obtained from the *Frankfurter Zeitung*, 26 June 1935.

<sup>4</sup> The CRT uses official exchange rates when making currency conversions.

<sup>5</sup> The market value for this security was obtained from *The New York Times*, 23 June 1935.

- 20 *General Electric Company Common shares ohne Nennwert* common shares with no face value. These shares were trading at US\$ 26.50 per share when sold on 22 June 1935, for a total market value of US\$ 530.00, which was equivalent to SF 1,632.40;<sup>6</sup> and
- 4 *Radio Corporation of America Common shares ohne Nennwert* common shares with no face value. These shares were trading at US\$ 5.1875 per share when sold on 7 June 1935, for a total market value of US\$ 20.75, which was equivalent to SF 63.91.<sup>7</sup>

The CRT notes that three of these securities were held in various repositories in New York, New York, in the United States. The CRT further notes that it was general practice for US-issued securities to remain physically in the United States, deposited in a US bank, and that trade in Europe in these issues was by way of so-called depositary receipts. Although the security certificates thus remained in the United States, the Bank in Switzerland was ultimately in control of these assets as ownership rested with the depositary receipts.

Therefore, the Bank's records indicate that the total value of the custody account numbered L41217, before its closure in June 1935 was SF 33,771.50. The Article 29 value of SF 13,000.00, which was used in the September 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 20,771.50. 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 259,643.75.

### **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 Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
29 September 2008

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<sup>6</sup> The market value for this security was obtained from *The New York Times*, 23 June 1935.

<sup>7</sup> The market value for this security was obtained from *The New York Times*, 8 June 1935.