

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]

in re Account of Marianne Bardach

Claim Number: 208668/AC

Award Amount: 17,062.50 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the account of Marianne Bardach (the “Account Owner”). This Award Amendment is to the Account Owner’s published account at 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.

On 15 July 2003 the Court approved an Award to the Claimant for one demand deposit account owned by the Account Owner (the “July 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the July 2003 Award. Based upon further evidence regarding the reliability of the declarations made in the Nazi decreed 1938 Census of Jewish-owned assets (the “1938 Census”), the CRT determines that the value of the demand deposit account was 2,140.00 Swiss Francs (“SF”), and that given the foregoing, the July 2003 Award amount shall accordingly be increased by SF 17,062.50.

The CRT notes that in the July 2003 Award, the CRT 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. Based on the information contained in the Bank’s records and in the Austrian State Archives regarding the Account Owner’s 1938 Census declaration, the CRT determined that the Account Owner held one demand deposit account and that the value of the demand deposit account was SF 775.00 as of 15 July 1938. Additionally, in the July 2003 Award, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her demand deposit account. Finally, the CRT determined that the July 2003 Award amount was SF 9,687.50.

The CRT's Analysis

Amount of the Award Amendment

In the July 2003 Award, the CRT determined that the value of the Account Owner's demand deposit account held at the Bank was SF 775.00, which is the amount recorded in the Account Owner's 1938 Census declaration as the value of the demand deposit account as of 15 July 1938.

However, the CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all her assets, or understated their value, in the belief that this might help her safeguard some of them. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in a demand deposit account is less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be SF 2,140.00.

Accordingly, the CRT does not find that the value of the demand deposit account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's demand deposit account shall be determined to be SF 2,140.00. The amount of SF 775.00, which is the value of the account used in the July 2003 Award, is subtracted from the Article 29 value, resulting in a difference of SF 1,365.00. 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. Accordingly, the amount of the July 2003 Award is increased by SF 17,062.50, which reflects the adjusted difference between the value of the Account Owner's demand deposit account recorded in the 1938 Census declaration and the value determined by Article 29 of the Rules.

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
21 October 2004