

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]

in re Accounts of Julius Berlowitz

Claim Numbers: 208571/CU; 209237/CU; 213443/CU

Original Award Amount: 216,000.00 Swiss Francs

Award Amendment Amount: 802,029.38 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED]”) and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the published accounts of Julius Berlowitz (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 claimants, any relative of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 15 July 2003, the Court approved an Award to the Claimants for one custody account and two demand deposit accounts owned by the Account Owner (the “July 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 July 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 15 July 2003, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) and Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) for the accounts of Julius Berlowitz (the “July 2003 Award”), which is the subject of this Award Amendment.

The July 2003 Award

In the July 2003 Award, the CRT determined that the Account Owner owned one custody account and two demand deposit accounts. The CRT further determined that the Claimants plausibly identified the Account Owner, that they plausibly demonstrated that they are related to the Account Owner, and that they 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 accounts and that the Claimants were entitled to equal shares of the 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 July 2003 Award, the Bank's record indicates the name and the city of domicile of the Account Owner. According to this record, the Account Owner was Julius Berlowitz, who resided in Berlin, Germany and held two demand deposit accounts and one custody account. The Bank's record indicates that both demand deposit accounts were opened in 1931 and closed on 30 June 1933 and 31 December 1933, respectively. The custody account was opened on 15 February 1931 and closed on 9 March 1934.

As noted above, the Bank 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. According to this *Leitkarte*, the Account Owner held a custody account, numbered 42503.

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

- 6% *Hackethal-Draht- & Kabel-Werke A.-G. Hannover v. 1927* bonds with a nominal value of Reichsmark ("RM") 2,000.00, which were sold on 8 March 1934;
- 6% *I.G. Farbenindustrie A.G. Frankfurt a/M von 1928 Conv. Obligationen (mit event. Zusatzverzinsung)* bonds with a nominal value of RM 4,000.00, which were sent (*zugesandt*) out of the account on 8 March 1934;
- 7% *Berliner Stadtische Elektrizitätswerke A.-G., Berlin, von 1925 fällig am 1.11.1940* bonds with a nominal value of SF 2,000.00, which were sent to an account at the Central Imperial Bank for Securities (*Reichshauptbank für Wertpapiere*) in Berlin on 21 December 1933;
- 7% *Deutsche Linoleum-Werke A.-G. Berlin von 1926* bonds with a nominal value of RM 4,000.00, which were sent to the *Reichshauptbank* on 22 November 1933;

- 7% *Mitteldeutsche Stahlwerke A.-G., Berlin von 1927*, bonds with a nominal value of RM 6,500.00 which were designated exempt (*freigestellt*) from the account on 21 February 1934;
- 7% *Vereinigte Stahlwerke A.-G., Düsseldorf, Serie B von 1926* bonds with a nominal value of RM 2,000.00, which were sent out of the account on 8 March 1934;
- 8% *Aktien-Ges. Mix & Genest. Telphon- & Telegraphen-Werke, Berlin-Schönberg 1926 Serie 20* bonds with a nominal value of RM 4,000.00, which were designated exempt (*freigestellt*) from the account on 21 February 1934;
- 8% *Aschinger's Aktiengesellschaft zu Berlin 1926* bonds with a nominal value of RM 11,000.00, which were sent out of the account on 29 January 1934;
- 8% *Deutsche Linoleum-Werke A.-G. Berlin von 1926* bonds with a nominal value of RM 3,500.00, which were sent to the *Reichshauptbank* on 22 November 1933;
- 8% *Eisen- & Stahlwerk Hoesch A.-G. in Dortmund v. 1926* bonds with a nominal value of RM 1,000.00, which were sold on 22 February 1933;
- 8% *Eisen- & Stahlwerk Hoesch A.-G. in Dortmund v. 1926* bonds with a nominal value of RM 3,000.00, which were sold on 6 December 1933;
- 8% *Engelhardt-Brauerei A.G., Berlin von 1926* bonds with a nominal value of RM 1,000.00, which were sent to the *Reichshauptbank* on 8 August 1933;
- 8% *Engelhardt-Brauerei A.G., Berlin von 1926* bonds with a nominal value of RM 14,000.00, which were sent to the *Reichshauptbank* on 29 January 1934; and
- 8% *Klöckner-Werke Aktiengesellschaft, Berlin 1926* bonds with a nominal RM 3,000.00, which were sent out of the account on 8 March 1934.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of the Claimants. The CRT previously determined in the July 2003 Award that the claims are admissible in accordance with Article 18 of the Rules, that the Claimants have plausibly demonstrated that they are related to the Account Owner, and that it is plausible that neither the Account Owner nor his heirs received the proceeds of his accounts.

Value of the accounts in the July 2003 Award

In the July 2003 Award, the Account Owner held two demand deposit accounts and one custody account. The value of all accounts other than custody account 42503 remains unaffected.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for custody account 42503 in July 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 nominal value of bonds not in default shall be awarded if the market value was below the nominal 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. The market value of bonds shall be awarded if that value was above the nominal value on the date the account owner is deemed to have lost control over the account. However, if a bond is in default, the award valuation shall be the market value on or as close as possible to the relevant date.

According to the additional information recently received from the Bank, the Account Owner held a custody account numbered 42503 with the following securities:

- *6% Hackethal-Draht- & Kabel-Werke A.-G. Hannover v. 1927* bonds with a nominal value of RM 2,000.00. These bonds were of good quality and were trading at 104.50% on 1 July 1938.² Since the bonds were of good quality and had a market value above the nominal value, the market value will be used to determine the value of this asset. The total market value of these bonds was RM 2,090.00, which was equivalent to SF 2,539.77;³
- *6% I.G. Farbenindustrie A.G. Frankfurt a/M von 1928 Conv. Obligationen (mit event. Zusatzverzinsung)* bonds with a nominal value of RM 4,000.00. These bonds were of good quality and were trading at 118.45% on 8 March 1934. The total market value of these bonds was RM 4,738.00, which was equivalent to SF 5,757.62;⁴
- *7% Berliner Stadtische Elektrizitätswerke A.-G., Berlin, von 1925 fällig am 1.11.1940* bonds with a nominal value of SF 2,000.00. These bonds were in default and trading at 60.50% when sent to the *Reichshauptbank* on 21 December 1933. Therefore, these bonds shall be valued at their market value of SF 1,210.00;⁵
- *7% Deutsche Linoleum-Werke A.-G. Berlin von 1926* bonds with a nominal value of RM 4,000.00. These bonds were of good quality and were trading at 94.00% on 23 November 1933. Since the bonds were of good quality and had a market value below the nominal

² The market value for this security was obtained from the *Frankfurter Zeitung*, 2 July 1938. The CRT notes, if the market value cannot be researched for the year a particular security was traded, the CRT uses the closest available date to determine the market value of the security.

³ The CRT uses official exchange rates when making currency conversions.

⁴ The market value for this security was obtained from the *Frankfurter Zeitung*, 9 March 1934.

⁵ The market value for this security was obtained from the 26 December 1933 issue of the *Kursblatt der Zürcher Effektenbörse*.

value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 4,000.00, which was equivalent to SF 4,904.00;⁶

- 7% *Mitteldeutsche Stahlwerke A.-G., Berlin von 1927* bonds with a nominal value of RM 6,500.00. These bonds were of good quality and were trading at 108.50% on 21 February 1934. The total market value of these bonds was RM 7,052.50, which was equivalent to SF 8,570.20;⁷
- 7% *Vereinigte Stahlwerke A.-G., Düsseldorf, Serie B von 1926* bonds with a nominal value of RM 2,000.00. These bonds were of good quality and were trading at 75.75% on 21 February 1934. Since the bonds were of good quality and had a market value below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 2,000.00, which was equivalent to SF 2,430.40;⁸
- 8% *Aktien-Ges. Mix & Genest. Telphon- & Telegraphen-Werke, Berlin-Schönberg 1926 Serie 20* bonds with a nominal value of RM 4,000.00. These bonds were of good quality and were trading at 104.25% in 1937. The total market value of these bonds was RM 4,170.00, which was equivalent to SF 7,303.76;⁹
- 8% *Aschinger's Aktiengesellschaft zu Berlin 1926* bonds with a nominal value of RM 11,000.00. These bonds were of good quality and were trading at 66.50% in 1934. Since the bonds were of good quality and had market values below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 11,000.00, which was equivalent to SF 13,367.20;¹⁰
- 8% *Deutsche Linoleum-Werke A.-G. Berlin von 1926* bonds with a nominal value of RM 3,500.00. These bonds were of good quality and were trading at 94.00% on 23 November 1933. Since the bonds were of good quality and had a market value below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 3,500.00, which was equivalent to SF 4,291.00;¹¹
- 8% *Eisen- & Stahlwerk Hoesch A.-G. in Dortmund v. 1926* bonds with a nominal value of RM 1,000.00. These bonds were of good quality and were trading at 90.25% on 13 February 1933. Since the bonds were of good quality and had a market value below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 1,000.00, which was equivalent to SF 1,226.00;¹²
- 8% *Eisen- & Stahlwerk Hoesch A.-G. in Dortmund v. 1926* bonds with a nominal value of RM 3,000.00. These bonds were of good quality and were trading at 97.50% on 7 December 1933. Since the bonds were of good quality and had a market value below the nominal value, the nominal value will be used to determine the value of this asset. The

⁶ The market value for this security was obtained from the *Frankfurter Zeitung*, 24 November 1933.

⁷ The market value for this security was obtained from the *Frankfurter Zeitung*, 21 February 1934.

⁸ The market value for this security was obtained from the *Frankfurter Zeitung*, 9 March 1934.

⁹ The market value for this security was obtained from the *Handbuch der Deutschen Aktiengesellschaften*, 1938, p. 6980.

¹⁰ The market value for this security was obtained from the *Handbuch der Deutschen Aktiengesellschaften*, 1939, p. 4917.

¹¹ The market value for this security was obtained from the *Frankfurter Zeitung*, 24 November 1933.

¹² The market value for this security was obtained from the *Frankfurter Zeitung*, 14 February 1933.

total nominal value of these bonds was RM 3,000.00 which was equivalent to SF 3,678.00;¹³

- 8% *Engelhardt-Brauerei A.G., Berlin von 1926* bonds with a nominal value of RM 1,000.00. These bonds were of good quality and were trading at 80.25% on 8 August 1933. Since the bonds were of good quality and had a market value below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 1,000.00, which was equivalent to SF 1,226.00;¹⁴
- 8% *Engelhardt-Brauerei A.G., Berlin von 1926*, bonds with a nominal value of RM 14,000.00. These bonds were of good quality and were trading at 88.00% on 30 January 1934. Since the bonds were of good quality and had a market value below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 14,000.00, which was equivalent to SF 17,012.80;¹⁵
- 8% *Klöckner-Werke Aktiengesellschaft, Berlin 1926*, bonds with a nominal RM 3,000.00. These bonds were of good quality and were trading at 90.75% on 8 March 1934. Since the bonds were of good quality and had a market value below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was RM 3,000.00, which was equivalent to SF 3,645.60;¹⁶

Therefore, the Bank's records indicate that the total value of custody account 42503 on 9 March 1934 was SF 77,162.35. The Article 29 value of SF 13,000.00, which was used in the July 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 64,162.35. 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 802,029.38.

Division of the Award Amendment

Pursuant to Article 23(1)(c) of the Rules, if the spouse of an Account Owner has not submitted a claim, an award shall be made to any descendants of Account Owners who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1] and Claimant [REDACTED 2] have each submitted a claim. Accordingly, Claimant Weil and Claimant Berton are each entitled to a one-half share of the total Award Amendment amount.

Scope of the Award Amendment

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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).

¹³ The market value for this security was obtained from the *Frankfurter Zeitung*, 8 December 1933.

¹⁴ The market value for this security was obtained from the *Frankfurter Zeitung*, 8 August 1933.

¹⁵ The market value for this security was obtained from the *Frankfurter Zeitung*, 30 January 1934.

¹⁶ The market value for this security was obtained from the *Frankfurter Zeitung*, 8 March 1934.

Certification of the Award Amendment

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

Claims Resolution Tribunal
16 April 2010