

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]
and to Claimant [REDACTED 2],
and to Claimant [REDACTED 3]¹

in re Accounts of Alexander Conitzer

Claim Numbers: 211118/RS;² 211119/RS;³ 850074/RS⁴

Original Award Amount: 181,680.00 Swiss Francs

Award Amendment Amount: 345,062.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Alexander Conitzer (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 relatives of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 3 June 2003, the Court approved an Award to the Claimants for a custody account and a demand deposit account owned by the Account Owner (the “June 2003 Award”). At the time of that award, the bank records available to the CRT did not contain information regarding the

¹ On 3 June 2003, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) and Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) for the accounts of Alexander Conitzer (the “June 2003 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 211118 and 217935. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 211118.

³ Claimant [REDACTED 2] also submitted two Claim Forms, which were registered under the Claim Numbers 211119 and 217934. The CRT has determined that these claims are also duplicate claims and is treating them under the consolidated Claim Number 211119.

⁴ [REDACTED 3] did not submit a Claim Form to the CRT. However, on 28 November 2006 he submitted a letter to Special Master Michael Bradfield appealing the distribution of the June 2003 Award. The appeal was addressed in a Decision on Appeal issued by the Court on 6 April 2007. [REDACTED 3]’s letter of appeal was forwarded to the CRT and has been assigned claim number 850074.

value of the awarded custody account. However, the Bank recently made available to the CRT additional information regarding 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 June 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

The June 2003 Award

In the June 2003 Award, the CRT determined that the Account Owner owned a custody account and a demand deposit account. 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 each entitled to one-half 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").

The Decision on Appeal

On 28 November 2006, [REDACTED 3] submitted a letter of appeal to Special Master Michael Bradfield, appealing the distribution of the June 2003 Award. In a Decision on Appeal dated 6 April 2007 (the "Decision on Appeal"), Special Master Michael Bradfield held that [REDACTED 3] should have been entitled to one-half of the June 2003 Award amount, and that [REDACTED 3] was therefore entitled to receive payment equivalent to one-half of the June 2003 Award amount.

Information Available in the Bank's Records

As detailed in the June 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 one demand deposit account, which was closed on 31 May 1933, and a custody account, which was closed on 2 September 1933.

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:

- 4.5% *Eidgenössische Staatsanleihe 1930* bonds with a face value of SF 10,000.00, which were sold on 2 September 1933;
- 4.5% *Kanton Genf 1930* bonds with a face value of SF 10,000.00, which were sold on 2 September 1933;
- 4.5% *Stadt Zürich 1930* bonds with a face value of SF 10,000.00, which were sold on 2 September 1933; and
- 4.5% *Schweizerische Bundesbahnen 1928* bonds with a face value of SF 10,000.00, which were sold on 2 September 1933.

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 and [REDACTED 3] in one proceeding.

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of the Claimants and [REDACTED 3]. The CRT previously determined in the June 2003 Award that the Claimants' 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. The CRT also previously determined in the Decision on Appeal that [REDACTED 3] had plausibly demonstrated that he was related to the Account Owner.

Value of the accounts in the June 2003 Award

In the June 2003 Award, the Account Owner held one demand deposit account and one custody account. The value of the demand deposit account remains unaffected.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody account in June 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. The market value of bonds shall be awarded if that value was above the face value on the date the account owner is deemed to have lost control over the account.

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

- 4.5% *Eidgenössische Staatsanleihe 1930* bonds with a face value of SF 10,000.00. These bonds were of good quality, and were trading at 103.05% on 2 September 1933. Therefore, these bonds shall be valued at their market value of SF 10,305.00;⁵
- 4.5% *Kanton Genf 1930* bonds with a face value of SF 10,000.00. These bonds were of good quality, and were trading at 99.4% on 2 September 1933. Therefore, these bonds shall be valued at their face value of SF 10,000.00;⁶
- 4.5% *Stadt Zürich 1930* bonds with a face value of SF 10,000.00. These bonds were of good quality, and were trading at 97.5% on 2 September 1933. Therefore, these bonds shall be valued at their face value of SF 10,000.00;⁷ and
- 4.5% *Schweizerische Bundesbahnen 1928* bonds with a face value of SF 10,000.00. These bonds were of good quality, and were trading at 103% on 2 September 1933. Therefore, these bonds shall be valued at their market value of SF 10,300.00.⁸

Therefore, the Bank's records indicate that the total value of the custody account was SF 40,605.00. The Article 29 value of SF 13,000.00, which was used in the June 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 27,605.00. 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 345,062.50.

Division of the Award Amendment

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.

Accordingly, following the distribution set out in the Decision on Appeal, the Claimants, who are siblings, are each entitled to one-quarter of the total Award Amendment amount, or SF 86,265.63; and [REDACTED 3], the Claimants' cousin, is entitled to one-half of the total Award Amendment amount, or SF 172,531.25.

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

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).

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