

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant Klaus Rosenstern
also acting on behalf of Franz Joseph Rosenstern

in re Account of H. Daniels

Claim Number: 207985/UM

Award Amendment Amount: 35,350.00 Swiss Francs

This Certified Award Amendment is based upon the claim of Klaus Rosenstern (the “Claimant”) to the account of Paul Rosenstern¹. This Award Amendment is to the unpublished account of H. Daniels (the “Account Owner”) at the Lugano branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

On 20 November 2002 the Court approved an Award to the Claimant for an account of unknown type owned by the Account Owner (the “November 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the November 2002 Award. Based upon Article 29 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT determines that the value of the account of unknown type was 3,950.00 Swiss Francs (“SF”), and that given the foregoing, the November 2002 Award amount shall accordingly be increased by SF 35,350.00.

The CRT notes that in the November 2002 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, the CRT determined that the Account Owner held one account of unknown type and that the value of the account of unknown type was SF 217.00, and that after factoring in standardized bank fees charged to the account between 1945 and 19 June 1998, as determined under Article 31(1) of the Rules, the CRT determined that the adjusted balance of the account at issue was SF 1,122.00. Additionally, in the November 2002 Award, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her account of unknown type. Finally, the CRT determined that the November 2002 Award amount was SF 13,464.00.

¹ The CRT will treat the claim to the accounts of Paul Rosenstern separately.

The CRT's Analysis

Amount of the Award Amendment

In the November 2002 Award, the CRT determined that the value of the Account Owner's account of unknown type was SF 217.00, which is the amount recorded in the Bank's records as the value of the account of unknown type as of 19 June 1998, plus an adjustment of SF 905.00, which reflects standardized bank fees charged to the account of unknown type between 1 January 1945 and 19 June 1998, for a total adjusted balance of SF 1,122.00 for the Account Owner's account of unknown type.

Pursuant to Article 29 of the Rules, if the amount in an account of unknown type is less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account of unknown type shall be determined to be SF 3,950.00.

In this case, the CRT does not find that the value of the account of unknown type indicated in the Bank's records 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 account of unknown type shall be determined to be SF 3,950.00. The amount of SF 1,122.00, which is the value for this account used in the November 2002 Award, is then subtracted from the Article 29 value, resulting in a difference of SF 2,828.00. 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.

Consequently, the amount of the November 2002 Award is increased by SF 35,350.00, which reflects the adjusted difference between the value of the Account Owner's account of unknown type recorded in the Bank's records plus an adjustment reflecting fees charged to the account, and the value determined by Article 29 of the Rules.

Division of the Award Amendment

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Account Owner's spouse is deceased, and the Claimant, who is a son of the Account Owner, is representing Franz Joseph Rosenstern, his brother. Accordingly, the Claimant and his brother are each entitled to one-half of the total Award Amendment amount.

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
30 December 2004