

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED 1]<sup>1</sup>  
also representing [REDACTED 2]

**in re Account of Alfred Eisenstaedt**

Claim Numbers: 218537/JG

Original Award Amount: 149,500.00 Swiss Francs

Award Amendment Amount: 49,020.50 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Alfred Eisenstaedt (the “Account Owner”) at 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 14 May 2002, the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “May 2002 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 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 May 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

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<sup>1</sup> On 14 May 2002 the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the custody account of Alfred Eisenstaedt (the “May 2002 Award”), which is the subject of this Award Amendment. See *in re Account of Alfred Eisenstaedt* (approved on 14 May 2002). In a separate decision, the CRT awarded an additional account to the Claimant. See *in re Account of Dr. Alfred Eisenstaedt* (approved on 7 August 2003) (the “August 2003” Award). This award remains unaffected.

## **The May 2002 Award**

In the May 2002 Award, the CRT determined that the Account Owner owned one custody account and one demand deposit account.<sup>2</sup> The CRT further determined that the Claimant plausibly identified the Account Owner, that she plausibly demonstrated that she is related to the Account Owner, and that she 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 custody account and that the Claimant and the party she represents were each entitled to one-half of the award amount.

Finally, the CRT determined that the Bank's records 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 May 2002 Award, the Bank's records indicate the name and city of residence of the Account Owner, and that the Account Owner held the title of "Dr." These records further indicate that the Account Owner held one custody account, which was closed on 18 February 1937, and one demand deposit account, which was closed on 20 June 1935.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account numbered 37506. 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 custody account numbered 37506 it contained the following securities:

- 4% *Schweizerische Bundesbahnen 1931* bonds with a face value of SF 5,000.00, which were sold on 24 January 1935;
- 5% *Funding Gold Oblig. Königreich Jugoslavien 1936/1937* bonds with a face value of 750.00 French Francs ("FF"), which on 11 February 1937 were transferred to another account in the Bank, numbered 57858, the owner of which is unknown;
- 5% *Funding Gold Oblig. Königreich Jugoslavien 1933* bonds with a face value of FF 4,750.00, which on 11 February 1937 were transferred to another account in the Bank, numbered 57858, the owner of which is unknown;
- 5% *Funding Gold-Zert. Königreich Jugoslavien 14 October 1935* bonds with a face value of FF 125.00, which on 11 February 1937 were transferred to another account in the Bank, numbered 15200, the owner of which is unknown;

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<sup>2</sup> The CRT notes that the demand deposit account was awarded to the Claimant in the August 2003 Award. See footnote 1.

- *5.5% Internationale Bodenkreditbank Basel 1931* bonds with a face value of SF 10,000.00, which on 11 February 1937 were transferred to another account in the Bank, numbered 57858, the owner of which is unknown; and
- *7% Internationale Stabilisierungs-Gold-Anleihe des Königreichs Jugoslawien von 1931 Schweizerische Tranche* bonds with a face value of SF 5,076.25, which on 11 February 1937 were transferred to another account in the Bank, numbered 57858, the owner of which is unknown.

## **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 May 2002 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 she is related to the Account Owner, and that it is plausible that neither the Account Owner nor his heirs received the proceeds of his custody account.

### Value of the accounts in the May 2002 Award

In the May 2002 Award, the Account Owner held one custody account and one demand deposit 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 May 2002, 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.

According to the additional information from the Bank, the Account Owner held the following securities in the custody account numbered 37506:

- *4% Schweizerische Bundesbahnen von 1931* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 85.80% when sold on 24 January 1935. Since these 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 face value of these bonds was SF 5,000.00;<sup>3</sup>

- *5% Funding Gold Oblig. Königreich Jugoslavien 1936/1937* bonds with a face value of FF 750.00. These bonds were of good quality and were trading at 42.25% when transferred on 11 February 1937.<sup>4</sup> Since these 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 face value of these bonds was FF 750.00, which was equivalent to SF 131.85;<sup>5</sup>
- *5% Funding Gold Oblig. Königreich Jugoslavien 1933* bonds with a face value of FF 4,750.00. These bonds were of good quality and were trading at 4342.25% when transferred on 11 February 1937. Since these 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 face value of these bonds was FF 4,750.00, which was equivalent to SF 835.05;<sup>6</sup>
- *5% Funding Gold-Zert. Königreich Jugoslavien 14 October 1935* bonds with a face value of FF 125.00. These bonds were of good quality and were trading at 42.25% when transferred on 11 February 1937. Since these 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 face value of these bonds was FF 125.00, which was equivalent to SF 21.98;<sup>7</sup>
- *5.5% Internationale Bodenkreditbank Basel 1931* bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 71.00% when transferred on 11 February 1937. Since these 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. Therefore, these bonds will be valued at their face value of SF 10,000.00;<sup>8</sup> and
- *7% Internationale Stabilisierungs-Gold-Anleihe des Königreichs Jugoslavien von 1931 Schweizerische Tranche* bonds with a face value of SF 5,076.25. These bonds were in default and trading at 18.38% when transferred on 11 February 1937. Therefore, these bonds shall be valued at their market value of SF 932.76.<sup>9</sup>

The CRT notes that the Bank's records do not indicate who owned the accounts into which certain of the securities are shown to be transferred, and that one of these account numbers appears as the transfer destination for other, unrelated accounts. Even if these accounts were held by the respective owners of the accounts from which the securities originated, the records do not indicate when the accounts were closed, or the disposition of the securities contained within them. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

Therefore, the Bank's records indicate that the total value of the custody account numbered 37506 before its closure in February 1937 was SF 16,921.64. The Article 29 value of SF

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<sup>3</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1935.

<sup>4</sup> The market value for this security was obtained from the *Manuel des Valeurs, Geneve*, page 37.

<sup>5</sup> The CRT uses official exchange rates when making currency conversions.

<sup>6</sup> The market value for this security was obtained from the *Manuel des Valeurs, Geneve*, page 37.

<sup>7</sup> The market value for this security was obtained from the *Manuel des Valeurs, Geneve*, page 37.

<sup>8</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>9</sup> The market value for this security was obtained from the *Manuel des Valeurs, Geneve*, page 37.

13,000.00, which was used in the May 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 3,921.64. 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 49,020.50.

#### 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 Claimant is representing her brother, [REDACTED 2]. Accordingly, the Claimant and her brother are each entitled to one-half of the total Award Amendment amount.

#### **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 her claim to determine whether there are additional Swiss bank accounts to which she 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