

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant Ernst Michael Eisner¹
represented by Santiago Sologueren Paz

in re Accounts of Ernst Eisner

Claim Number: 300764/CU

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 61,250.00 Swiss Francs

This Certified Award Amendment is based upon the claim of Ernst Michael Eisner (the “Claimant”) to the published accounts of Ernst Eisner (the “Account Owner”) at the [REDACTED](the “Bank”).

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

Procedural History

On 13 July 2004, the Court approved an Award to the Claimant for one custody account and one demand deposit account owned by the Account Owner (the “July 2004 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 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

The July 2004 Award

In the July 2004 Award, the CRT determined that the Account Owner owned one custody account and one demand deposit account. The CRT further determined that the Claimant plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the

¹ On 13 July 2004, the Court approved an award to Claimant Ernst Michael Eisner (the “Claimant”) for the accounts of Ernst Eisner (the “July 2004 Award”), which is the subject of this Award Amendment.

Account Owner, and that he 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 Claimant was entitled to the entire 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 2004 Award, the Bank's record indicates the name, the city of domicile and the Account Owner's title. According to this record the Account Owner held a demand deposit account, which was opened on 20 June 1927, and a custody account, numbered L32708, which was opened on 30 September 1928. The Bank's record indicates that the demand deposit account was closed on 20 March 1935, and the custody account on 25 March 1935.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account L32708. 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:

- 3.5% *Schweizerische Bundesbahnen von 1899/1902 Serie A/K* bonds with a face value of SF 3,000.00, which were sent (*zugesandt*) on 7 July 1933;
- 3.5% *Schweizerische Bundesbahnen von 1910 Serie 1* bonds with a face value of SF 7,500.00, which were sold on 5 February 1934;
- 3.5% *Schweizerische Bundesbahnen von 1910 Serie 1* bonds with a face value of SF 1,000.00, which were sold on 21 March 1935;
- 5% *Kraftwerk Ryburg-Schwoerstadt A.G. Rheinfelden von 1929* bonds with a face value of SF 5,000.00, which were sold on 21 March 1935; and
- 7% *A.E.G. Union Elektrizitäts-Gesellschaft Wien, 1926* bonds with a face value of SF 5,000.00, which were transferred to an account, the owner of which is unknown, numbered 15200, on 23 March 1935.

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 July 2004 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 he is 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 2004 Award

In the July 2004 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 July 2004, 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:

- 3.5% *Schweizerische Bundesbahnen von 1899/1902 Serie A/K* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 96.60% when sent on 7 July 1933. Since the bonds were of good quality and had market values below the 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 3,000.00;²
- 3.5% *Schweizerische Bundesbahnen von 1910 Serie 1* bonds with a face value of SF 7,500.00. These bonds were of good quality and were trading at 90.25% when sold on 5 February 1934. Therefore these bonds will be valued at their face value of SF 7,500.00;³
- 3.5% *Schweizerische Bundesbahnen von 1910 Serie 1*. bonds with a face value of SF 1,000.00. These bonds were of good quality and were trading at 82.50% when sold on 21 March 1935. Therefore these bonds will be valued at their face value of SF 1,000.00;⁴
- 5% *Kraftwerk Ryburg-Schwoerstadt A.G. Rheinfelden von 1929* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 88.00% when sold

² The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

³ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1934.

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1935.

on 21 March 1935. Therefore these bonds will be valued at their face value of SF 5,000.00;⁵

- 7% A.E.G. *Union Elektrizitäts-Gesellschaft Wien, 1926*, bonds with a face value of SF 5,000.00. These bonds were in default and trading at 28.00% when transferred on 23 March 1935. Therefore, these bonds shall be valued at their market value of SF 1,400.00.⁶

The CRT notes that certain securities in the account were transferred to another account at the Bank, numbered 15200. The CRT notes that the Bank's records do not indicate the owner of this custody account, and that this account number appears as the transfer destination for other, unrelated accounts, suggesting that it was not owned by the Account Owner. However, even if account 15200 was owned by the Account Owner, the records do not indicate when it was closed, or the ultimate disposition of the securities contained within it. 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 was SF 17,900.00. The Article 29 value of SF 13,000.00, which was used in the July 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 4,900.00. 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 61,250.00.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1935.

⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1934.