

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

and to the Estate of Claimant [REDACTED 3], née [REDACTED]¹

in re Accounts of Max Friede

Claim Numbers: 201177/CU; 214959/CU²

Original Award Amount: 912,000.00 Swiss Francs

Award Amendment Amount: 473,000.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and the Estate of [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) (together the “Claimants”), to the published accounts of Max Friede (the “Account Owner”) at the [REDACTED] (the “Bank I”) and the [REDACTED] (“Bank II”).

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 26 November 2002, the Court approved an Award to the Claimants for two custody accounts owned by the Account Owner at Bank I and one custody account at Bank II (the “November

¹ On 26 November 2002, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) and Claimant [REDACTED] (“Claimant [REDACTED]”) (together the “Claimants”) for the accounts of Max Friede (the “November 2002 Award”), which is the subject of this Award Amendment. In the November 2002 Award, the CRT noted that [REDACTED]’s mother, [REDACTED 3], née [REDACTED], originally filed a claim to the accounts of her father, Max Friede. [REDACTED 3] passed away on 15 May 2002 in Sound Beach, New York, the United States, so [REDACTED] has assumed the claim. Since that time, portions of the November 2002 Award were paid to the co-executors of [REDACTED 3]’s Estate, including her daughter [REDACTED]. In order to assure the proper distribution of the account proceeds to the Estate of one of the original claimants, [REDACTED 3], the present decision is addressed in part to the “Estate of Claimant [REDACTED 3], née [REDACTED].”

² Claimant [REDACTED 1] submitted two Claim Forms, which were registered under the Claim Numbers 214959 and 221559. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 214959.

2002 Award”). At the time of that award, the bank records then available to the CRT did not contain information regarding the value of the awarded custody accounts at Bank I. However, Bank I recently made available to the CRT additional information about one custody account, including detailed documentation on the portfolio held in the account. In this Award Amendment, the CRT adopts and amends its findings set out in the November 2002 Award based upon this additional information recently forwarded to the CRT by Bank I.

The November 2002 Award

In the November 2002 Award, the CRT determined that the Account Owner owned two custody accounts at Bank I and one additional custody account at Bank II. 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 custody accounts at the Banks and that the Claimants and represented party [REDACTED 2] were each entitled to one-third share of the award amount.

Finally, the CRT determined that Bank I’s records did not indicate the value of the custody accounts, and therefore presumed that the value of the custody accounts were 13,000.00 Swiss Francs (“SF”) each.

Information Available in the Banks’ Records

As detailed in the November 2002 Award, the Banks’ records indicate the name and domicile of the Account Owner. According to these records, the Account Owner was Max Friede of Bocholt, Germany. Bank I’s records indicate that the Account Owner held two custody accounts, numbered 39333 and L39333, which were closed on 23 March 1937 and 9 September 1938, respectively. Bank II’s records indicate that the Account Owner held one custody account.

As noted above, Bank I recently provided the CRT with additional documents regarding custody account 39333. 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 the *Leitkarte*, the Account Owner resided at Südwall 7 in Bocholt, Germany.

Upon careful review of these new documents, the CRT has ascertained that Bank I’s records evidence the existence of only one custody account, numbered 39333, which was closed on 23 August 1937, reopened on 4 August 1938, and subsequently closed in 1938.

These documents indicate that the Account Owner held the following securities:

- 4.5% *Eidgenössische Staatsanleihe von 1930*, bonds with a nominal value of SF 60,000.00, which were sold on 6 September 1938.

The CRT's Analysis

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 November 2002 Award that the claims are admissible in accordance with Article 18 of the Rules Governing the Claims Resolution process, as amended (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 November 2002 Award

In the November 2002 Award, the Account Owner was determined to have held three custody accounts. The value of the custody account held at Bank II remains unaffected.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody accounts at Bank I in November 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 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.

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

- 4.5% *Eidgenössische Staatsanleihe von 1930* bonds with a nominal value of SF 60,000.00, which were of good quality and trading at 106.40% when sold on 6 September 1938. Therefore, the total market value of these bonds was SF 63,840.00.³

Therefore, Bank I's records indicate that the total value of the custody account in September 1938 was SF 63,840.00. Since the Article 29 value of SF 13,000.00 was used in the November 2002 Award for the two custody accounts at Bank I, and since the additional documentation indicates that the Account Owner held only one custody account, which was closed in 1937 and then re-opened in 1938, SF 26,000.00 is then subtracted from the actual historic value, resulting

³ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

in a difference of SF 37,840.00.⁴ 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 473,000.00.

Division of the Award Amendment

According to Article 23(1)(c) of the Rules and as noted above and in the November 2002 Award, when an 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 claims to the account, in equal shares by representation. Consequently, Claimant [REDACTED 1], represented party [REDACTED 2], and Claimant [REDACTED 3] are each entitled to one-third 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).

Certification of the Award Amendment

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

Claims Resolution Tribunal
30 June 2008

⁴ As mentioned above, the CRT determined upon careful review of the additional bank documents that the Account Owner owned only one custody account at the [REDACTED] ("Bank I"), therefore 26,000.00 Swiss Francs ("SF") (twice the Article 29 value of SF 13,000.00 as awarded for two accounts in the November 2002 Award) is deducted.