

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant Hedwig Lea Prowisor¹
also acting on behalf of Ernestine Ruth Davidovic

in re Accounts of Desider Friedmann

Claim Number: 000200/WT

Original Award Amount: 47,400.00 Swiss Francs

Award Amendment Amount: 113,125.00 Swiss Francs

This Certified Award Amendment is based upon the claim of Hedwig Lea Prowisor, née Friedmann (the “Claimant”) to the published accounts of Desider Friedmann (the “Account Owner”), over which Ella Friedmann (the “Power of Attorney Holder”) held power of attorney, at the Basel branch of the [REDACTED] (the “Bank”).²

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 25 October 2002, the Court approved an award to the Claimant and represented party Ernestine Ruth Davidovic for one account of unknown type owned by the Account Owner at the Bank (the “October 2002 Award”). Additionally, in the October 2002 Award the CRT reserved decision with regard to a safe deposit box owned by the Account Owner. After that date, the

¹ In a separate decision, the Court approved an award to Claimant Hedwig Lea Prowisor (the “Claimant”) for one account belonging to Desider Friedmann. See *In re Accounts of Desider Friedmann* (approved on 25 October 2002) (the “October 2002 Award”).

² The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Desider Friedmann is listed as having two accounts, over which Ella Friedmann held power of attorney, Ella Friedmann of Vienna, Austria is listed as having one account, and Ella Friedmann of Berlin, Germany, is listed as having one account. Upon careful review, the CRT has determined that Desider Friedmann held three accounts over which Ella Friedmann of Vienna, Austria, held power of attorney, of which one was previously awarded in the October 2002 Award and is the subject of this Award Amendment, and two of which will be addressed in a separate decision. Additionally, the CRT has determined that Ella Friedmann of Berlin, Germany, is not the same person addressed in the current decision and, consequently, the Claimant did not identify this other account owner as her relative.

Bank made available to the CRT additional information about these accounts. These documents contain additional details regarding the accounts addressed in the October 2002 Award and indicate that the account awarded as an account of unknown type in the October 2002 Award was, in fact, a custody account, and that the Account Owner owned a third account – a savings/passbook account – not addressed in the October 2002 Award. The new information regarding the safe deposit box and the savings/passbook account will be addressed in a separate decision. In this Award Amendment, the CRT adopts and amends its findings set out in the October 2002 Award based upon this additional information forwarded to the CRT by the Bank.

The October 2002 Award

In the October 2002 Award, the CRT determined that the Account Owner owned one safe deposit box account and one account of unknown type, numbered 36387. 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. The CRT determined that it was plausible that the Account Owner did not receive the proceeds of the account of unknown type, but reserved judgment regarding the safe deposit box. Finally, the CRT determined that the Bank's record did not indicate the value of the account of unknown type, and therefore presumed that its value was 3,950.00 Swiss Francs ("SF").

Information Available in the Bank's Records

The Bank's records consist of a contract, dated 9 September 1931, for the rental of a safe deposit box, a power of attorney form, a signature sample card, an extract from a ledger of accounts which were frozen under the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the "1945 Freeze"), and a safe opening protocol. According to these records, the Account Owner was Dr. Desider Friedmann, an attorney who resided at Schottenring 26 in Vienna, Austria, and the Power of Attorney Holder was his wife, Ella Friedmann, who resided at Albertgasse 26 in Vienna. The Bank's records indicate that the Account Owner held a safe deposit box, numbered 808,³ and an account, the type of which is not indicated, numbered 36387. The Bank's records indicate that account 36387 was opened on 17 January 1931. Regarding account 36387, the Bank's records do not show when it was closed, nor do these records indicate the value of this account. The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

³ As mentioned earlier, this account will be treated in a separate decision.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about the Account Owner’s accounts (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of a second power of attorney form, a ledger showing fees charged to Dr. D. Friedmann between the years 1944 through 1946 for the rental of safe deposit box 808, and a list of account holders. These documents indicate that account 36387 was a custody account.⁴ The records do not show when the custody account was closed, nor do these records indicate the value of this account. There is no evidence in the Bank’s records that the Account Owner, the Power of Attorney Holder, or their heirs closed this account and received the proceeds themselves.

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 October 2002 Award that the claim is admissible in accordance with Article 18 of 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, the Power of Attorney Holder nor their heirs received the proceeds of their account.

Amount of the Award Amendment

In this case, the Account Owner held one custody account, numbered 36387. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, 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 on the ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00. The Article 29 value of the account of unknown type which was used in the October 2002 Award is then subtracted, for a total of SF 9,050.00. 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, to produce a total award amendment amount of SF 113,125.00.

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 sister, Ernestine Ruth Davidovic. Accordingly, the Claimant is entitled to one-half of the total award amendment amount, and her sister is entitled to one-half of the total award amendment amount.

⁴ The Bank’s records contain a power of attorney form that references a ‘*Titeldepot*’, which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

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
25 November 2008