

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED 2],
[REDACTED 3], and [REDACTED 4]

in re Accounts of Carl Fuchs

Claim Number: 221703/RS²

Original Award Amount: 181,680.00 Swiss Francs

Award Amendment Amount: 3,119,150.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (the “Claimant”) to the published accounts of Carl Fuchs (the “Account Owner”), at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Procedural History

On December 2002, the Court approved an Award to the Claimant and represented parties [REDACTED 2], [REDACTED 3], and [REDACTED 4] (the “Represented Parties”) for a custody account and a demand deposit account owned by the Account Owner (the “December 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 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

¹ On 27 December 2002, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) and the represented parties [REDACTED 2], [REDACTED 3] and [REDACTED 4] for the accounts of Carl Fuchs (the “December 2002 Award”), which is the subject of this Award Amendment.

² The Claimant submitted ten additional claims, which are registered under the Claim Numbers 221700, 221701, 221702, 221704, 221705, 221706, 221707, 221708, 221718, and 401789. The CRT awarded the account of Margarete Fuchs to the Claimant in a separate decision. See *in re Account of Margarete Fuchs* (approved on 3 June 2003). In determinations dated 6 March 2006 and 19 December 2007, the CRT treated the claims to accounts 221706, 221707, and 221708. The CRT will treat the remaining claims in separate determinations.

and amends its findings set out in the December 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

The December 2002 Award

In the December 2002 Award, the CRT determined that the Account Owner owned a custody account and a 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 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 and the Represented Parties were each entitled to one-quarter of the award amount.³

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 December 2002 Award, the Bank's record indicates the name and city of residence of the Account Owner. The record indicates that the Account Owner held one custody account, which was closed on 29 August 1938, and one demand deposit account, which was closed on 20 April 1937.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account. 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 the Account Owner held the following securities in the custody account, which was numbered 37779:

- 4% *Kanton Bern 1930* bonds with a nominal value of SF 3,000.00, which were sold on 25 August 1938;

³ The CRT notes that in a letter dated 8 March 2003, the Claimant appealed the CRT's distribution of the December 2002 Award, stating that family inheritance agreements indicated that the December 2002 Award should have been distributed in a different manner. In a response dated 17 March 2003, Special Master Michael Bradfield indicated that the Claimant was entitled following payment to distribute the award funds in accordance with family inheritance agreements. The CRT notes that according to the inheritance documents submitted by the Claimant with his claim, the distribution of the December 2002 Award outlined by the CRT was correct; the CRT further notes that the Claimant has not submitted to the CRT any additional documentation that would indicate a distribution different than that set out in the December 2002 Award. Accordingly, the CRT, based upon the inheritance documents submitted by the Claimant to the CRT to date, concludes that the distribution of this Award Amendment shall be the same as the distribution set out in the December 2002 Award, namely that the Claimant and the Represented Parties are each entitled to one-quarter of the Award Amendment amount.

- 4.5% *Eidgenössische Staatsanleihe 1930* bonds with a nominal value of SF 54,000.00, which were sold on 25 August 1938;
- 4% *Stadt Zürich 1930* bonds with a nominal value of SF 10,000.00, which were sold on 25 August 1938;
- 4.5% *Schweizerischen Bundesbahnen 1928* bonds with a nominal value of SF 40,000.00, which were sold on 25 August 1938;
- 4.75% *Hypothekarkasse des Kantons Bern 1929* bonds with a nominal value of SF 40,000.00, which were sold on 25 August 1938;
- 4% *Schweizerisch-Argentinische Hypothekenbank, Zürich, Serie K 1929* bonds with a nominal value of SF 10,000.00, which were sold on 25 August 1938;
- 20 6% *Schweizerisch-Argentinische Hypothekenbank, Zürich* preferred shares, each with a face value of SF 500.00, which were sold on 25 August 1938;
- 60 *Schweizerische Kreditanstalt, Zürich* shares, each with a face value of SF 500.00, which were sold on 25 August 1938; and
- 4.5% *Compagnie des Chemins de Fer de Paris à Lyon et à la Méditerranée, Paris 1932* bonds with a nominal value of 21,000.00 Netherlands Florins (“Hfl.”), which were sold on 25 August 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 Claimant and the Represented Parties.⁴ The CRT previously determined in the December 2002 Award that the claim is admissible in accordance with Article 18 of the Rules, that the Claimant has plausibly demonstrated that he and the represented parties 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 December 2002 Award

In the December 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 December 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

⁴ See footnote 3 above regarding the distribution of the Award Amendment proceeds.

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. Stocks are valued at market value.

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

- 4% *Kanton Bern 1930* bonds with a nominal value of SF 3,000.00. These bonds were of good quality and were trading at 104.7% when sold on 25 August 1938. Therefore, these bonds shall be valued at their total market value of SF 3,141.00;⁵
- 4.5% *Eidgenössische Staatsanleihe 1930* bonds with a nominal value of SF 54,000.00. These bonds were of good quality and were trading at 106.4% when sold on 25 August 1938. Therefore, these bonds shall be valued at their total market value of SF 57,456.00;⁶
- 4% *Stadt Zürich 1930* bonds with a nominal value of SF 10,000.00. These bonds were of good quality and were trading at 105% when sold on 25 August 1938. Therefore, these bonds shall be valued at their total market value of SF 10,500.00;⁷
- 4.5% *Schweizerischen Bundesbahnen 1928* bonds with a nominal value of SF 40,000.00. These bonds were of good quality and were trading at 108.25% when sold on 25 August 1938. Therefore, these bonds shall be valued at their total market value of SF 43,300.00;⁸
- 4.75% *Hypothekarkasse des Kantons Bern 1929* bonds with a nominal value of SF 40,000.00. These bonds were of good quality and were trading at 103.25% when sold on 25 August 1938. Therefore, these bonds shall be valued at their total market value of SF 41,300.00;⁹
- 4% *Schweizerisch-Argentinische Hypothekenbank, Zürich, Serie K 1929* bonds with a nominal value of SF 10,000.00. These bonds were of good quality and were trading at 101.3% when they were sold on 25 August 1938. Therefore, these bonds shall be valued at their total market value of SF 10,130.00;¹⁰
- 20 6% *Schweizerisch-Argentinische Hypothekenbank, Zürich* preferred shares, each with a face value of SF 500.00, and each with a market value on 25 August 1938 of SF 360.00, for a total market value of SF 7,200.00;¹¹
- 60 *Schweizerische Kreditanstalt, Zürich* shares, each with a face value of SF 500.00, and each with a market value on 25 August 1938 of SF 650.00, for a total market value of SF 39,000.00;¹² and

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

- 4.5% *Compagnie des Chemins de Fer de Paris à Lyon et à la Méditerranée, Paris 1932* bonds with a nominal value of 21,000.00 Netherlands Florins (“Hfl.”). These bonds were of good quality and were trading at 88.25% when sold on 25 August 1938. Therefore, these bonds shall be valued at their total nominal value of Hfl. 21,000.00,¹³ which was equivalent to SF 50,505.00.¹⁴

Therefore, the Bank’s records indicate that the total value of the custody account in June 1938 was SF 262,532.00. The Article 29 value of SF 13,000.00, which was used in the December 2002 Award is then subtracted from the actual historic value, resulting in a difference of SF 249,532.00. 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 3,119,150.00.

Division of the Award Amendment

As noted above, and based upon the inheritance documents submitted by the Claimant to the CRT to date, the CRT concludes that the distribution of this Award Amendment shall be the same as the distribution set out in the December 2002 Award, namely that the Claimant and the Represented Parties are each entitled to one-quarter of the 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 his claims 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
30 June 2008

¹³ The market value for this security was obtained from the *Credit Suisse Bulletin* of October 1938, at 88.

¹⁴ The CRT uses official exchange rates when making currency conversions.