

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to the Estate of Claimant [REDACTED]¹
represented by Dr. Walter Friedrich

in re Accounts of Leo Fürst

Claim Number: 500038/JG

Original Award Amount: 205,725.00 Swiss Francs

Award Amendment Amount: 54,562.50 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], formerly [REDACTED] (the “Claimant”) to the published accounts of Leo Fürst (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 31 December 2003, the Court approved an Award to the Claimant for one custody account, one demand deposit account, and one account of unknown type owned by the Account Owner (the “December 2003 Award”). On 31 December 2004, the Court approved an amendment to the December 2003 Award in which the value of the account of unknown type was increased (the “December 2004 Amendment”). At the time of the December 2003 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 December 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 31 December 2003, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Leo Fürst (the “December 2003 Award”), which is the subject of this Award Amendment. Additionally, in December 2004, the Court approved an amendment to the December 2003 Award, increasing the original award amount (the “December 2004 Amendment”).

The December 2003 Award

In the December 2003 Award, the CRT determined that the Account Owner owned one custody account, one demand deposit account, and one account of unknown type. 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 was entitled to the entire award amount.

Also described in the December 2003 Award were various items of correspondence, submitted by the Claimant, between the Account Owner and the Flight Tax Authorities in Vienna, Austria. In a letter dated 21 June 1938, the Account Owner indicated that his account at the Zurich branch of the Bank carried a balance of SF 715.00 as of 21 June 1938, and that his total assets as of 1 January 1938 were 112,571.00 Reichsmarks (“RM”). In this letter, the Account Owner indicated that among the securities he owned were:

- *3.5% Swiss Federal Railway 1899/1902* bonds with a face value of SF 6,000.00, and valued at SF 6,231.00;
- *4.5% Bank für elektronische Unternehmungen Zürich 1931* bonds with a face value of SF 5,000.00, and valued at SF 5,400.00;
- *6% Internationale Bodenkreditbank Basel 1931* bonds with a face value of SF 5,000.00, and valued at SF 3,512.50;
- *7% Austrian Federal International 1930* bonds with a face value of SF 6,000.00, and valued at SF 6,300.00; and
- *4% City of Vienna 1931* bonds with a face value of SF 5,000.00, and valued at SF 4,925.00.

Additionally, the CRT referred to a letter submitted by the Claimant from the Swiss law firm *Winter & Partner*, dated 24 June 1997, regarding the Bank’s failure to successfully locate any information regarding the Account Owner’s accounts.

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 Record

As detailed in the December 2003 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, numbered L 42483, which was closed on 30 March 1939, and one demand deposit account, which was closed on 31 March 1939. Information with respect to the account of unknown type as treated in the December 2003 Award and the December 2004 Amendment was provided to the CRT by the Claimant.

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 at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- 3% *Schweizerische Bundesbahnen 1938* bonds with a face value of SF 2,000.00, which were sold on 18 October 1938;
- 3% *Schweizerische Bundesbahnen 1938* bonds with a face value of SF 4,000.00, which were sold on 27 February 1939;
- 4 ½% *Bank für elektrische Unternehmungen Zürich 1931* bonds with a face value of SF 5,000.00, which were sold on 25 February 1939;
- 6% *Internat. Bodenkreditbank Basel 1931* bonds with a face value of SF 5,000.00, which were sold on 8 February 1939;
- 7% *Internationale Anleihe der Republik Oesterreich von 1930 Schweizer Tranche* bonds with a face value of SF 6,000.00, which were sold on 19 January 1939; and
- 4% *Stadt Wien 1931* bonds with a face value of SF 5,000.00, which were sold on 25 March 1939.

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 December 2003 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 December 2003 Award

In the December 2003 Award, the Account Owner held one custody account, one demand deposit account, and one account of unknown type. The value of the demand deposit account and the account of unknown type 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 2003, 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% Schweizerische Bundesbahnen 1938* bonds with a face value of SF 2,000.00. These bonds were of good quality and were trading at 97.90% when sold on 18 October 1938. Therefore, these bonds will be valued at their face value of SF 2,000.00;²
- *3% Schweizerische Bundesbahnen 1938* bonds with a face value of SF 4,000.00. These bonds were of good quality and were trading at 78.75% when sold on 27 February 1939. Therefore, these bonds will be valued at their face value of SF 4,000.00;³
- *4 ½% Bank für elektrische Unternehmungen Zürich 1931* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 105.50% when sold on 25 February 1939. Since the bonds were of good quality and had market values above the face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 5,275.00;⁴
- *6% Internat. Bodenkreditbank Basel 1931* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 35.00% when sold on 8 February 1939. Therefore, these bonds will be valued at their face value of SF 5,000.00;⁵
- *7% Internationale Anleihe der Republik Oesterreich von 1930 Schweizer Tranche* with a face value of SF 6,000.00. These bonds were in default and trading at 9.00% when sold on 19 January 1939. Therefore, these bonds shall be valued at their market value of SF 540.00;⁶ and
- *4% Stadt Wien 1931* bonds with a face value of SF 5,000.00. These bonds were in default and trading at 11.00% when sold on 25 March 1939. Therefore, these bonds shall be valued at their market value of SF 550.00.⁷

The CRT notes that this portfolio, with one exception, is identical to that listed in Leo Fürst's letter to the Flight Tax Authorities, dated 21 June 1938, as securities denominated in Swiss francs, without however specifying the location of these securities. The exception relates to a listing of *Schweizerische Bundesbahnen von 1899/1902, Series A/K* bonds valued at SF 6,831.00,

² The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

³ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

⁷ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

or 103.85% of their face value of SF 6,000.00. The portfolio information now made available by the Bank indeed lists these bonds, with a face value of SF 6,000, but shows that they were exchanged on 21 March 1938 for an equal amount of *3% Schweizerische Bundesbahnen 1938* bonds. As shown above, these were later sold in two lots of SF 2,000.00 and SF 4,000.00 face value. Any other differences between the portfolio values shown in the Leo Fürst's correspondence and those given below stem from the difference in valuation dates: 1 January 1938 for the former and the post-Anschluss transaction dates as given in the Bank information for the latter.

The Bank's records, therefore, indicate that the total value of the custody account was SF 17,365.00. The Article 29 value of SF 13,000.00, which was used in the December 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 4,365.00. 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 54,562.50.

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