

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 Claimant [REDACTED 3]

in re Accounts of Annemarie Gallia-Boschan

Claim Numbers: 223755/AC; 223759/AC¹; 779801/AC²

Award Amendment Amount: 35,156.25 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Annemarie Gallia-Boschan and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of [REDACTED]. This Award Amendment is to the accounts of Annemarie Gallia-Boschan (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards 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.

On 24 April 2003, the Court approved an Award to the Claimants for one custody account and two demand deposit accounts owned by the Account Owner (the “April 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the April 2003 Award. Based upon further evidence regarding the reliability of the declarations made in the Nazi decreed 1938 Census of Jewish-owned assets (the “1938 Census”), the CRT determines that the value of the Account Owner’s demand deposit accounts was 4,280.00 Swiss Francs (“SF”) and that given the foregoing, the April 2003 Award amount shall accordingly be increased by SF 35,156.25.

¹ Claimant [REDACTED 1] submitted additional claims to the accounts of [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 223756, 223757, and 223758, respectively. The CRT will treat the claims to these accounts separately.

² Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0384145 to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and was assigned claim number 779801.

The CRT notes that in the April 2003 Award, the CRT 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. Based on the information contained in the Bank's records and records from the Austrian State Archives concerning the assets of Annemarie Gallia-Boschan, the CRT determined that the Account Owner held one custody account and two demand deposit accounts and that the value of the two demand deposit accounts was SF 1,467.50 as of 15 August 1939. Additionally, in the April 2003 Award, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her three accounts. Finally, the CRT determined that the April 2003 Award amount was SF 4,099,120.32.

The CRT's Analysis

Amount of the Award Amendment

The CRT notes that in the April 2003 Award the valuation of the demand deposit accounts was based entirely on the Account Owner's 1938 Census declaration. However, the CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all of her assets, or understated their value, in the belief that this might help to safeguard some of them. In the April 2003 Award, the CRT determined that the value of the Account Owner's two demand deposit accounts was SF 1,467.50, which is the amount recorded in the Austrian State Archive records as the value of the two demand deposit accounts as of 15 August 1939.

Pursuant to Article 29 of the Rules, if the amount in a demand deposit account is less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be SF 2,140.00.

The CRT notes that in the April 2003 Award, the Claimant was awarded the amount recorded in the Austrian State Archive records as the balance of the accounts, rather than SF 4,280.00. Upon further consideration, the CRT has determined that this balance is not sufficient evidence to rebut the presumption of Article 29 of the Rules, and in the absence of additional corroborating evidence, the CRT concludes that the value of the Account Owner's two demand deposit accounts shall be determined to be SF 4,280.00. The amount of SF 1,467.50, which is the value for this account used in the April 2003 Award, is then subtracted from the Article 29 value, resulting in a difference of SF 2,812.50. 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.

Consequently, the amount of the April 2003 Award is increased by SF 35,156.25, which reflects the adjusted difference between the value of the Account Owner's two demand deposit accounts recorded in the Austrian State Archive records and the value determined by Article 29 of the Rules.

Division of the Award Amendment

According to Article 23(1)(g) of the Rules, if none of the people entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the award shall be made to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimants are both great-nieces of the Account Owner by marriage, and Claimant [REDACTED 1] is also representing her mother, [REDACTED 2], the wife of the Account Owner's nephew by marriage. Accordingly, Claimant [REDACTED 3] is entitled to one-half of the total Award Amendment amount, and Claimant [REDACTED 1] and her mother are each entitled to one-quarter of the total Award Amendment amount.

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
30 December 2004