

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]

in re Accounts of Hermann Goldschmidt

Claim Number: 216318/RS²

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 148,135.25 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Hermann Goldschmidt (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 8 April 2004, the Court approved an Award to the Claimant and represented party [REDACTED 2] for one custody account and one demand deposit account owned by the Account Owner (the “April 2004 Award”). At the time of that 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 about 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 April 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 8 April 2004, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Hermann Goldschmidt (the “April 2004 Award”), which is the subject of this Award Amendment.

² The Claimant submitted two additional claims, which are registered under the Claim Numbers 708589 and 708590. The CRT will treat these claims in separate determinations.

The April 2004 Award

In the April 2004 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 represented party [REDACTED 2] were each entitled to one-half of the award amount.

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 April 2004 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 demand deposit account, which was closed on 30 June 1938, and one custody account, which was closed on 14 September 1938.

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 cards ("*Depotvalorenkarten*") for each security held within the custody account. These additional documents indicate that the Account Owner's custody account was numbered 28584.

These documents indicate that at the time the Account Owner was deemed to have lost control over the account, it contained held the following securities:

- *6% Chilenische äussere Anleihe 1930* bonds with a nominal value of SF 5,000.00, which were transferred on 10 September 1938 to another account in the Bank numbered 15200, the owner of which is not known;
- *7 American Telephone and Telegraph Company common shares*, each with a face value of 100.00 United States Dollars (US \$), which were transferred on 9 September 1938 to another account in the Bank numbered 1211, the owner of which is not known (the actual repository of these shares is listed as the *National City Bank of New York* in New York);
- *54 British Insulated Cables Limited common shares*, which were transferred on 9 September 1938 to another account in the Bank numbered 1211, the owner of which is not known;
- *20 Central States Power & Light Corporation US \$7.00 dividend preferred stock*, which were transferred on 9 September 1938 to another account in the Bank numbered 1211, the owner of which is not known (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York);

- 21 *Consolidated Edison Company of New York common shares*, which were transferred on 9 September 1938 to another account in the Bank numbered 1211, the owner of which is not known (the actual repository of these shares is listed as the *National City Bank of New York* in New York);
- 110 *International Tea Company's Stores Limited common stock units*, each with a face value of £ .5.-, which were transferred on 9 September 1938 to another account in the Bank numbered 1211, the owner of which is not known; and
- 66 *United Dairies Limited common shares*, which were transferred on 9 September 1938 to another account in the Bank numbered 1211, the owner of which is not known.

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 represented party [REDACTED 2]. The CRT previously determined in the April 2004 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 April 2004 Award

In the April 2004 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 the April 2004 Award, 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. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owner held a custody account numbered 28584 with the following securities:

- 6% *Chilenische äussere Anleihe 1930* bonds with a nominal value of SF 5,000.00. These bonds were in default and were trading at 16% when they were transferred on 10 September 1938. Therefore, these bonds shall be valued at their market value of SF 800.00;³
- 7 *American Telephone and Telegraph Company common shares*, each with a face value of US \$100.00, and each with a market value of US \$143.75 on 9 September 1938, for a total market value of US \$1,006.25, which was equivalent to SF 4,397.31;⁴
- 54 *British Insulated Cables Limited common shares*, each with a market value on 9 September 1938 of £4.425, for a total market value of £238.95, which was equivalent to SF 5,106.36;⁵
- 20 *Central States Power & Light Corporation US \$7.00 dividend preferred stock*, each with a market value on 9 September 1938 of US \$82.00, for a total market value of US \$1,640.00, which was equivalent to SF 7,166.80;⁶
- 21 *Consolidated Edison Company of New York common shares*, each with a market value on 9 September 1938 of US \$25.75, for a total market value of US \$540.75, which was equivalent to SF 2,363.08;⁷
- 110 *International Tea Company's Stores Limited common stock*, each with a face value of £.5.-, and each with a market value on 9 September 1938 of £0.521875, for a total market value of £57.41, which was equivalent to SF 1,226.77;⁸ and
- 66 *United Dairies Limited common shares*, each with a market value on 9 September 1938 of £2.6875, for a total market value of £177.38, which was equivalent to SF 3,790.50.⁹

The CRT notes that the Bank's records do not indicate who owned the accounts 15200 and 1211, into which these securities were transferred, and that both of these account numbers appear as the transfer destination for other, unrelated accounts. Even if these accounts were held in part or in whole by the Account Owner, the records do not indicate when the accounts were closed, or the disposition of the securities contained within them. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

Therefore, the Bank's records indicate that the total value of the custody account in June 1938 was SF 24,850.82. The Article 29 value of SF 13,000.00, which was used in the April 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 11,850.82. 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 148,135.25.

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

⁴ The CRT uses official exchange rates when making currency conversions. The market value for this security was obtained from *The New York Times*, 10 September 1938.

⁵ The market value for this security was obtained from *The Financial Times*, 10 September 1938.

⁶ The market value for this security was obtained from *The New York Times*, 10 September 1938.

⁷ Ibid.

⁸ The market value for this security was obtained from *The Stock Exchange Official Yearbook 1940*, at 1450.

⁹ The market value for this security was obtained from *The Financial Times*, 10 September 1938.

Division of the Award Amendment

According to Article 23(1)(c) of the Rules, if the spouse of an account owner 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 his niece, [REDACTED 2], the daughter of the Claimant's sister, [REDACTED], née [REDACTED], who did not submit a claim and is not represented in these proceedings. Therefore, as the Claimant is the Account Owner's son and the Claimant's niece is the child of the Account Owner's daughter, the Claimant and his niece are each entitled to one-half of the total award 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
11 August 2008