

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Accounts of Elisabeth Hirschfeld

Claim Number: 201078/WT

Original Award Amount: 323,610.00 Swiss Francs

Award Amendment Amount: 580,365.87 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Elisabeth Hirschfeld (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”), and at the Zurich branch of the [REDACTED] (“Bank II”).

All award amendments are published. Where a claimant has not requested confidentiality, as in this case, only the names of the banks have been redacted.

Procedural History

On 27 January 2002, the Court approved an Award to the Claimant for one custody account and one demand deposit account owned by the Account Owner at Bank I, and one custody account owned by the Account Owner at Bank II (the “January 2002 Award”). On 30 September 2003, the Court approved an award of two demand deposit accounts owned by the Account Owner at Bank II which were addressed but not awarded in the January 2002 Award (the “September 2003 Award”).

At the time of the January 2002 Award and the September 2003 Award, Bank II’s records then available to the CRT did not contain information regarding the value of the awarded custody account held by the Account Owner at Bank II. However, Bank II 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 January 2002 Award based upon this additional information recently forwarded to the CRT by Bank II.

¹ On 27 January 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Elisabeth Hirschfeld (the “January 2002 Award”), which is the subject of this Award Amendment. On 30 September 2003, the Court approved an additional award to the Claimant for two accounts whose disposition was left undecided in the January 2002 Award (the “September 2003 Award”), which is not affected by this Award Amendment.

The January 2002 Award

In the January 2002 Award, the CRT determined that the Account Owner owned six accounts: one custody account and one demand deposit account at Bank I, and one custody account and three demand deposit accounts at Bank II. 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 her accounts and that the Claimant was entitled to the entire award amount. The CRT awarded to the Claimant the custody account and demand deposit account which the Account Owner held at Bank I, and the custody account which the Account Owner held at Bank II.

Finally, the CRT determined that Bank II's records 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").

The September 2003 Award

In the September 2003 Award, the CRT treated the three demand deposit accounts held by the Account Owner at Bank II. This award remains unaffected and is not treated in this award amendment.

Information Available in Bank II's Records

As detailed in the January 2002 Award and the September 2003 Award, Bank II's records indicate the name and city of residence of the Account Owner and also indicate the name of a person who previously shared ownership of the accounts. The records indicate that the Account Owner held four accounts at Bank II: one custody account, numbered L27514, which was closed on 20 December 1937; one demand deposit account, which was closed on 20 February 1932; one demand deposit account, which was closed on 10 February 1933; and one demand deposit account, which was closed on 3 March 1933.

As noted above, Bank II 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 that the Account Owner lost control of the account, it contained the following securities in the custody account, numbered L27514:

- 2.5% *Anatolische Eisenbahngesellschaft Serie II. 1893* bonds with a nominal value of SF 125,000.00, of which SF 60,000.00 in nominal value were transferred to another bank in 1936, and of which SF 65,000.00 in nominal value were transferred to another account in 1938;

- 3.5% *British War Loan von 1932* bonds with a nominal value of 800.00 Pounds Sterling (“£”), which were delivered (“*ausgeliefert*”) in March 1937 and transferred to another bank;
- 4% *Chemins de Fer du Midi S.A., Paris von 1930 Série étrangère* bonds with a nominal value of 30,000.00 French Francs (“FF”), which were transferred to another bank on 6 April 1933;
- 4% *Schweizerische Bundesbahnen von 1927* bonds with a nominal value of SF 2,000.00, which were delivered (“*ausgeliefert*”) on 6 April 1933 and transferred to another bank;
- 4% *Stadt Zürich von 1933* bonds with a nominal value of SF 3,000.00, which were delivered (“*ausgeliefert*”) on 6 April 1933 and transferred to another bank;
- 4% *United States of Mexico gd. bds. von 1904* bonds with a nominal value of 4,000.00 United States Dollars (“US \$”), which were transferred to another account on 17 December 1937;
- 5% *Mexicanische Cons. äussere Goldanleihe von 1899* bonds with a nominal value of £1,160.00, which were delivered (“*ausgeliefert*”) on 6 April 1933 and transferred to another bank;
- 5% *Republic of Mexico, consol.ext.gd.bds. von 1899* bonds with a nominal value of £1,640.00, which were transferred on 17 December 1937 and transferred to another account; and
- 5 *Schweizerische Kreditanstalt, Zürich, Aktien à Fr. 500.-* shares each with a face value of SF 500.00, which were sold on 2 March 1937.

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 January 2002 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 her heirs received the proceeds of her accounts.

Value of the Accounts in the January 2002 Award

In the January 2002 Award, the Account Owner held one custody account and one demand deposit account at Bank I, and one custody account and three demand deposit accounts at Bank II. The value of all accounts other than the one custody account held at Bank II 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 held at Bank II in January 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 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 not in default 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. Bonds in default and stocks are valued at market value.

According to the additional information from Bank II, the Account Owner held the following securities in the custody account, numbered L27514:

- 2.5% *Anatolische Eisenbahngesellschaft Serie II. 1893* bonds with a nominal value of SF 125,000.00. These bonds were in default and trading at 22% when bonds with a nominal value of SF 60,000.00 were transferred in 1936. Therefore, these bonds shall be valued at their total market value of SF 13,200.00.² These bonds were in default and trading at 16.25% when the remaining bonds with a nominal value of SF 65,000.00 were transferred in 1938. Therefore, these bonds shall be valued at their total market value of SF 10,562.50.³ Therefore, the total market value of these bonds was SF 23,762.50;
- 3.5% *British War Loan von 1932* bonds with a nominal value of £800.00. These bonds were of good quality and were trading at 101.88% when delivered in March 1937.⁴ The total market value of these bonds was £815.00, which was equivalent to SF 17,563.25;⁵
- 4% *Chemins de Fer du Midi S.A., Paris von 1930 Série étrangère* bonds with a nominal value of FF 30,000.00. These bonds were of good quality and were trading at 78% when transferred on 6 April 1933. Therefore, these bonds shall be valued at their nominal value of FF 30,000.00, which was equivalent to SF 6,081.00;⁶
- 4% *Schweizerische Bundesbahnen von 1927* bonds with a nominal value of SF 2,000.00. These bonds were of good quality and were trading at 110% when delivered on 6 April 1933. The total market value of these bonds was SF 2,200.00;⁷
- 4% *Stadt Zürich von 1933* bonds with a nominal value of SF 3,000.00. These bonds were of good quality and were trading at 97.5% when delivered on 6 April 1933. Therefore, these bonds shall be valued at their nominal value of SF 3,000.00;⁸

² The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1936.

³ The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1938.

⁴ The market value for this security was obtained from *The Financial Times*, 15 March 1937.

⁵ The CRT uses official exchange rates when making currency conversions.

⁶ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1933.

⁷ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1933.

⁸ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1933.

- 4% *United States of Mexico gd.bds. von 1904* bonds with a nominal value of US \$4,000.00. These bonds were in default and trading at 5.18% when transferred on 17 December 1937. Therefore, these bonds shall be valued at their total market value of US \$207.30, which was equivalent to SF 903.83;⁹
- 5% *Mexicanische Cons. äussere Goldanleihe von 1899* bonds with a nominal value of £1,160.00. These bonds were in default and were trading at 6.75% when delivered on 6 April 1933. Therefore, these bonds shall be valued at their total market value of £78.30, which was equivalent to SF 1,341.28;¹⁰
- 5% *Republic of Mexico, consol.ext.gd.bds. von 1899* bonds with a nominal value of £1,640.00. These bonds were in default and were trading at 3.81% when transferred on 17 December 1937. Therefore, these bonds shall be valued at their total market value of £62.53, which was equivalent to SF 1,347.41;¹¹ and
- 5 *Schweizerische Kreditanstalt, Zürich, Aktien à Fr. 500.-* shares with a nominal value of SF 500.00, each with a market value on 2 March 1937 of SF 646.00, for a total market value of SF 3,230.00.¹²

The CRT notes that Bank II's records do not indicate who owned the accounts into which certain of the securities are shown to be transferred, and that some of these account numbers appear as the transfer destination for other, unrelated accounts. Even if these accounts were held by the respective owners of the accounts from which the securities originated, 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, Bank II's records indicate that the total value of the custody account, numbered L27514, before its closure on 20 December 1937 was SF 59,429.27. The Article 29 value of SF 13,000.00, which was used in the January 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 46,429.27. 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 580,365.87.

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).

⁹ The market value for this security was obtained from *Moody's Governments*, 1940, p. 1906.

¹⁰ The market value for this security was obtained from *The Financial Times*, 7 April 1933.

¹¹ The market value for this security was obtained from *The Financial Times*, 18 December 1937.

¹² The market value for this security was obtained from *Neue Zürcher Zeitung*, 3 March 1937.

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