

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]

in re Accounts of Johanna Kunstadt

Claim Number: 213606/HS

Award Amount: 131,575.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (the “Claimant”) to the accounts of Johanna Kunstadt (the “Account Owner”) at the Zurich branch of 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 8 April 2004 the Court approved an Award to the Claimant for a custody account and a demand deposit account owned by the Account Owner (the “April 2004 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the April 2004 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 custody account was 13,000.00 Swiss Francs (“SF”), and that given the foregoing, the April 2004 Award shall accordingly be increased by SF 131,575.00.

The CRT notes that in the April 2004 Award, the CRT determined that the Claimant plausibly identified the Account Owner, that the Claimant plausibly demonstrated that he and his sister, [REDACTED 2], who he is representing, are related to the Account Owner, and that the Claimant 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 in the Austrian State Archive regarding the Account Owner’s 1938 Census declaration, the CRT determined that the Account Owner held one custody account and one demand deposit account. Further, in the April 2004 Award, the CRT determined that it was plausible that the Account Owner did not receive the proceeds of her accounts. Finally, the CRT determined that the April 2004 Award amount was SF 57,675.00.

The CRT's Analysis

Amount of the Award Amendment

In the April 2004 Award, the CRT determined that the value of the Account Owner's custody account was SF 2,474.00, which is the amount recorded in a Bank statement, dated 17 June 1938, and contained in the Account Owner's 1938 Census declaration, and that the Bank charged the Account Owner SF 2.50 for issuing the Bank statement. Additionally, based on the Bank's records pertaining to the Account Owner, the CRT determined that the custody account was closed on 1 August 1946.

However, the CRT determines that it is unable to rely on the balance amount recorded in the 1938 Census, considering that it has no evidence regarding the circumstances of the closure of the custody account in August 1946, which is more than eight years after the Account Owner's 1938 Census declaration. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in a custody account is less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the custody account shall be determined to be SF 13,000.00.

Accordingly, the CRT does not find that the value of the custody account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's custody account shall be determined to be SF 13,000.00. The amount of SF 2,474.00, which is the value of this account used in the April 2004 Award, is subtracted from the Article 29 value, resulting in a difference of SF 10,526.00. The current value of this amount is calculated by multiplying the difference by a factor of 12.5, in accordance with Article 31(1) of the Rules. Accordingly, the amount of the April 2004 Award is increased by SF 131,575.00, which reflects the adjusted difference between the value of the Account Owner's custody account recorded in her 1938 Census declaration, and the value determined by Article 29 of the Rules.

Division of the Award Amendment

The Claimant is representing his sister in these proceedings. According to Article 23(c) of the Rules, if the Account Owner's spouse 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. Consequently, the Claimant and his sister are each entitled to receive one-half 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
21 October 2004