

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 Willy Loewenthal

Claim Number: 213847/RS

Original Award Amount: 181,680.00 Swiss Francs

Award Amendment Amount: 49,875.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Willy Loewenthal (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 26 November 2002, the Court approved an Award to the Claimant and represented party [REDACTED 2] for a custody account and a demand deposit account owned by the Account Owner (the “November 2002 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 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 November 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

The November 2002 Award

In the November 2002 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

¹ On 26 November 2002, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Willy Loewenthal (the “November 2002 Award”), which is the subject of this Award Amendment.

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 November 2002 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 10 July 1937; and one custody account, which was closed on 13 July 1937.

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:

- 4% *Kassascheine Eidgenössische Anleihe 1935 6-year redeemable 30 June 1941* bonds with a face value of SF 4,000.00, which were sold on 9 July 1937;
- 4% *Stadt Zürich 1934* bonds with a face value of SF 9,000.00, which were sold on 1 July 1937; and
- 4% *Centralschweizerische Kraftwerke, Luzern 1936* bonds with a face value of SF 3,000.00, which were sold on 9 July 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 and represented party [REDACTED 2]. The CRT previously determined in the November 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 his heirs received the proceeds of his accounts.

Value of the accounts in the November 2002 Award

In the November 2002 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 November 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 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:

- *4% Kassascheine Eidgenössische Anleihe 1935 6-year redeemable 30 June 1941* bonds with a face value of SF 4,000.00. These bonds were of good quality, and were trading at 106% on 9 July 1937. Therefore, these bonds shall be valued at their total market value of SF 4,240.00;²
- *4% Stadt Zürich 1934* bonds with a face value of SF 9,000.00. These bonds were of good quality, and were trading at 106% on 1 July 1937. Therefore, these bonds shall be valued at their total market value of SF 9,540.00;³ and
- *4% Centralschweizerische Kraftwerke, Luzern 1936* bonds with a face value of SF 3,000.00. These bonds were of good quality, and were trading at 107% on 9 July 1937. Therefore, these bonds shall be valued at their total market value of SF 3,210.00.⁴

Therefore, the Bank’s records indicate that the total value of the custody account was SF 16,990.00. The Article 29 value of SF 13,000.00, which was used in the November 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 3,990.00. 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 49,875.00.

Division of the Award Amendment

According to Article 23(1)(d) of the Rules, if neither the Account Owner’s spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any

² The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

³ Ibid.

⁴ Ibid.

descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation.

In this case, the Claimant is representing his sister, represented party [REDACTED 2]. Accordingly, the Claimant, who is the Account Owner's nephew, is entitled to one-half of the award amendment amount, and represented party [REDACTED 2], who is the Account Owner's niece, is entitled to one-half of the award amendment 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 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