

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Accounts of Dr. Max Löwenstein

Claim Number: 005370/RS

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 31,250.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Dr. Max Löwenstein (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 6 February 2004, the Court approved an Award to the Claimant for a custody account and a demand deposit account owned by the Account Owner (the “February 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 February 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

The February 2004 Award

In the February 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 she plausibly demonstrated that she is related to the Account

¹ On 6 February 2004, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Dr. Max Löwenstein (the “February 2004 Award”), which is the subject of this Award Amendment.

Owner, and that she 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 was entitled to the entire 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 February 2004 Award, the Bank's record indicates the name, city of residence, and doctor title of the Account Owner. The record indicates that the Account Owner held one custody account, numbered 47081, which was closed on 20 June 1933; and one demand deposit account, which was closed on 16 June 1933.²

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account 47081. 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:

- 3.5% *Schweizerische Bundesbahnen, Anleihe der Jura-Simplon-Bahn 1894* bonds with a face value of SF 500.00, which were transferred out of the account on 20 June 1933; and
- 4% *Schweizerische Bundesbahnen 1931* bonds with a face value of SF 15,000.00, which were transferred out of the account on 20 June 1933.

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 February 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 she 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.

² The CRT notes that the closing dates of the two accounts were reversed in the February 2004 Award. Upon further review, the CRT has concluded that in fact the custody account was closed on 20 June 1933, and the demand deposit account was closed on 16 June 1933.

Value of the accounts in the February 2004 Award

In the February 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 February 2004, 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 face value of bonds not in default shall be awarded if the market value was below the face 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.

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

- 3.5% *Schweizerische Bundesbahnen Anleihe der Jura-Simplon-Bahn 1894* bonds with a face value of SF 500.00. These bonds were of good quality and were trading at 91.5% when transferred on 20 June 1933. Therefore, these bonds shall be valued at their total face value of SF 500.00;³ and
- 4% *Schweizerische Bundesbahnen 1931* bonds with a face value of SF 15,000.00. These bonds were of good quality and were trading at 98.8% on 20 June 1933. Therefore, these bonds shall be valued at their total face value of SF 15,000.00.⁴

Therefore, the Bank’s records indicate that the total value of the custody account in June 1938 was SF 15,500.00. The Article 29 value of SF 13,000.00, which was used in the February 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 2,500.00. 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 31,250.00.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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).

³ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1933.

⁴ *Ibid.*

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