

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3] and [REDACTED 4]

in re Accounts of Alex Moses

Claim Numbers: 501563/CU; 500588/CU

Original Award Amount: 351,750.00 Swiss Francs

Award Amendment Amount: 216,250.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the published accounts of Alex Moses, and upon the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Siegfried Moses.² This Award Amendment is to the published accounts of Alex Moses (the “Account Owner”) at the [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimants, any relative of the claimants other than the account owner, and the bank have been redacted.

Procedural History

On 11 April 2005, the Court approved an Award to the Claimants for two custody accounts and one demand deposit account owned by the Account Owner (the “April 2005 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 accounts. However, the Bank recently made available to the CRT additional information about one custody account, including detailed documentation on the portfolios held in the account. In this Award Amendment, the CRT adopts and amends its

¹ On 11 April 2005, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) and Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) for the accounts of Alex Moses (the “April 2005 Award”), which is the subject of this Award Amendment.

² The CRT awarded the accounts of Siegfried Moses to Claimant [REDACTED 2] in a separate decision. See *in re Accounts of Siegfried Moses* (approved on 20 May 2004).

findings set out in the April 2005 Award based upon this additional information recently forwarded to the CRT by the Bank.

The April 2005 Award

In the April 2005 Award, the CRT determined that the Account Owner owned two custody accounts and one demand deposit account. The CRT further determined that the Claimants plausibly identified the Account Owner, that they plausibly demonstrated that they are related to the Account Owner, and that they 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 Claimant [REDACTED 1] was entitled to the entire award amount.

Finally, the CRT determined that the Bank's records did not indicate the value of the custody accounts, and therefore presumed that the value of one custody account was 13,000.00 Swiss Francs ("SF").

Information Available in the Bank's Records

As detailed in the April 2005 Award, the Bank's records indicate the name and the city of domicile of the Account Owner. According to these records, the Account Owner resided in Berlin-Wilmersdorf, Germany. The Bank's records indicate that the Account Owner held a demand deposit account and two custody accounts. The Bank's records indicate that the demand deposit account was opened on 15 August 1930 and closed on 10 November 1937. The Bank's records further indicate that one custody account, numbered L8188, was opened on 23 August 1930 and closed on 22 September 1938. The Bank's records indicate that the second custody account, numbered L35861, was closed on 9 March 1934.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account L35861.³ 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:

- 4.5% *Schweizerische Bundesbahnen 2.Elekt. Anl. von 1922* bonds with a face value of SF 15,000.00, which were cashed in (*einkassiert*) on 3 August 1933; and
- 4.5% *Schweizerische Bundesbahnen von 1928* bonds with a face value of SF 15,000.00, which were sent (*zugesandt*) on 4 March 1934.

³ The CRT notes that the Bank provided the CRT with additional documents only regarding custody account L35861.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of the Claimant [REDACTED 1]. The CRT previously determined in the April 2005 Award that the claims are admissible in accordance with Article 18 of the Rules, that the Claimants have plausibly demonstrated that they are 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 2005 Award

In the April 2005 Award, the Account Owner held two custody accounts and one demand deposit account. The value of the all accounts other than the custody account L35861 remain 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 April 2005, 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. 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 custody account L35861 with the following securities:

- 4.5% *Schweizerische Bundesbahnen 2.Elekt. Anl. von 1922*, bonds with a face value of SF 15,000.00. Since the bonds were cashed in, they will be valued at their face value.. The total value of these bonds thus was SF 15,000.00; and
- 4.5% *Schweizerische Bundesbahnen von 1928*, bonds with a face value of SF 15,000.00. These bonds were trading at 102.00% when sent out of the account on 4 March 1934.

Since the bonds were of good quality and had market values above the face value, the market value will be used to determine the value of this asset. The total market value of these bonds were SF 15,300.00.⁴

Therefore, the Bank's records indicate that the total value of custody account L35861 was SF 30,300.00. The Article 29 value of SF 13,000.00, which was used in the April 2005 Award, is then subtracted from the actual historic value, resulting in a difference of SF 17,300.00. 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 216,250.00.

Division of the Award Amendment

According to Article 23 (1) (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. Claimant [REDACTED 1], therefore, as a direct descendant of the Account Owner, has a better entitlement to the accounts than Claimant [REDACTED 2] and her siblings, who are descendants of the Account Owner's parents. Accordingly, Claimant [REDACTED 1] is entitled to the total award amount.

Scope of the Award Amendment

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1934.