

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] and [REDACTED 3]

in re Accounts of Siegfried Moses

Claim Number: 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], (the “Claimant”) to the accounts of Siegfried Moses and Alex Moses.² This Award Amendment is to the published account of Siegfried 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 20 May 2004, the Court approved an Award to the Claimant for two custody accounts and one demand deposit account owned by the Account Owner (the “May 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 May 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 20 May 2004, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Siegfried Moses (the “May 2004 Award”), which is the subject of this Award Amendment.

² The CRT awarded the accounts of Alex Moses to the Claimant in a separate decision. See *in re Accounts Alex Moses* (approved April 2005).

The May 2004 Award

In the May 2004 Award, the CRT determined that the Account Owner owned two custody accounts and one 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 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 and represented parties [REDACTED 2] and [REDACTED 3] were each entitled to one-third of the 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 each custody account was 13,000.00 Swiss Francs ("SF").

Information Available in the Bank's Records

As detailed in the May 2004 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 two custody accounts, numbered L35862 and L8189, and one demand deposit account. The Bank's records indicate that custody account L35862, was opened on 30 August 1929 and closed on 9 March 1934; custody account L8189, was opened on 23 August 1930 and closed on 18 January 1937; and that the demand deposit account was opened on 30 January 1930 and closed on 6 March 1937.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account L35862.³ These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within the custody account L35862.

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 out of the account (*zugesandt*) on 9 March 1934.

³ The CRT notes that the Bank provided the CRT with additional documents only regarding custody account L35862.

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 the represented parties. The CRT previously determined in the May 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 and the represented parties 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 May 2004 Award

In the May 2004 Award, the Account Owner held two custody accounts and one demand deposit account. The value of all accounts other than custody account L35862 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 May 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. 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 L35862 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 was SF 15,300.00.⁴

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

Therefore, the Bank's records indicate that the total value of custody account L35862 was SF 30,300.00. The Article 29 value of SF 13,000.00, which was used in the May 2004 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. In this case, the Claimant, who is the Account Owner's daughter, is representing her two siblings. Accordingly, the Claimant and her siblings are each entitled to receive one-third of the total award 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 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).

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