

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]
represented by Mendi Stern

in re Accounts of Samuel Motzen

Claim Numbers: 001811/AC; 223930/AC

Award Amendment Amount: 48,762.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Samuel Motzen (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”) and at the [REDACTED] (“Bank II”) (together the “Banks”).

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 2 January 2003, the Court approved an Award to the Claimants for two accounts of unknown type owned by the Account Owner (the “January 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the January 2003 Award. Based upon Article 29 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT determines that the value of the account of unknown type that the Account Owner held at Bank II was 3,950.00 Swiss Francs (“SF”), and that given the foregoing, the January 2003 Award amount shall accordingly be increased by SF 48,762.50.

The CRT notes that in the January 2003 Award, the CRT 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. Based on the information contained in the Bank’s records, the CRT determined that the Account Owner held two accounts of unknown type and that the value of the account of unknown type held at Bank I was unknown, and that the value of the account of unknown type held at Bank II was SF 49.00 as of 30 June 1937. Additionally, in the January 2003 Award, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his two accounts of unknown type. Finally, the CRT determined that the January 2003 Award amount was SF 47,988.00.

The CRT's Analysis

Amount of the Award Amendment

In the January 2003 Award, the CRT determined that the value of the Account Owner's account of unknown type held at Bank II was SF 49.00, which is the amount recorded in Bank II's records as the value of the account of unknown type as of 30 June 1937.

Pursuant to Article 29 of the Rules, if the amount in an account of unknown type is less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account of unknown type shall be determined to be SF 3,950.00.

The CRT notes that in the January 2003 Award, the Claimant was awarded the amount recorded in Bank II's records as the balance of the account, rather than SF 3,950.00. Upon further consideration, the CRT has determined that this balance is not sufficient evidence to rebut the presumption of Article 29 of the Rules, and in the absence of additional corroborating evidence, the CRT concludes that the value of the Account Owner's account of unknown type shall be determined to be SF 3,950.00. The amount of SF 49.00, which is the value for this account used in the January 2003 Award, is then subtracted from the Article 29 value, resulting in a difference of SF 3,901.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules.

Consequently, the amount of the January 2003 Award is increased by SF 48,762.50, which reflects the adjusted difference between the value of the Account Owner's account of unknown type recorded in Bank II's records and the value determined by Article 29 of the Rules.

Division of the Award Amendment

According to Article 23(1)(d) of the Rules, where 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 descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 2] is the only direct descendant of the Account Owner's parents to have submitted a claim, and is therefore entitled to the entire 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
30 December 2004