

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Account of Max Neisser

Claim Number: 207324/MBC²

Original Award Amount: 299,000.00 Swiss Francs

Award Amendment Amount: 994,641.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Max Neisser (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 29 March 2002, the Court approved an Award to the Claimant for two custody accounts, one numbered L26586 and the other with an unknown account number,³ owned by the Account Owner (the “March 2002 Award”). At the time of that award, the bank records available to the CRT did not contain information regarding the value of awarded custody account L26586. 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 March 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 29 March 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Max Neisser (the “March 2002 Award”), which is the subject of this Award Amendment.

² The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 207324 and 207325. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 207324.

³ The CRT notes that, in the March 2002 Award, the account numbers were not identified for either custody account. Upon careful review, the CRT has concluded that the Bank’s records evidence that one custody account was numbered L26586 and the other account number was not identified. Custody account L26586 is the account addressed in this Award Amendment.

The March 2002 Award

In the March 2002 Award, the CRT determined that the Account Owner owned two custody accounts. 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 or Target 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 custody account L26586, 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 March 2002 Award, the Bank's record indicates the name, title, profession and city and country of residence of the Account Owner. The record indicates that the Account Owner held two custody accounts, one numbered L26586, which was closed on 5 July 1937 and the other with an unknown account number, which was closed on 10 June 1937.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account L26586. 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:

- 10 shares of *Bank für elektrische Unternehmungen Zürich Aktien A* each with a face value of 500.00 Swiss Francs ("SF"), which were moved to *Bär & Co. Zch.* on 19 January 1937;
- 15 shares of *Bank für elektrische Unternehmungen Zürich Aktien A* each with a face value of SF 500.00, which were transferred on 1 July 1937 to another account within the Bank, numbered 20937, the owner of which is not known;
- *4% Belgische unif. Anleihe von 1935 1. Serie* bonds with a nominal value of 3,000 Belgian Francs ("Bfr"), which were sold on 9 February 1937;
- *6% Rentenbons Compania Hispano-Americana de Electricidad S.A. Madrid von 1920* bonds with a nominal value of 450.00 Argentinean Pesos Moneda Nacional ("\$MN"), which were collected ("*einkassiert*") on 6 of an illegible month 1936;
- *6% Rentenbons Compania Hispano-Americana de Electricidad S.A. Madrid von 1920* bonds with a nominal value of \$MN 29,475.00, which were delivered ("*ausgeliefert*") to *Jul. Bär Zch.* on 2 of an illegible month 1936;
- *6% O. Englebert Fils & Co. Komm. – A.G. Lüttich von 1930* bonds with a nominal value of SF 8,000.00, which were delivered ("*ausgeliefert*") to *Bär & Co. Zch.* on 19 January 1937;

- 6% *O. Englebert Fils & Co. Komm. – A.G. Lüttich von 1930* bonds with a nominal value of SF 6,000.00, which were transferred on 1 July 1937 to another account within the Bank, numbered 20937, the owner of which is not known;
- 150 shares of *Société Nationale des Chemins de Fer Belges, 6% Vorzugs – Aktien Serie A Schweizer Tranche* each with a face value of Bfr 500.00, which were transferred on 1 July 1937 to another account within the Bank, numbered 20937, the owner of which is not known;
- 130 shares of *Société Nationale des Chemins de Fer Belges, Bruxelles 6% Vorzugs – Aktien Serie B Holländische Tranche* each with a face value of Bfr 500.00, which were delivered (“*ausgeliefert*”) to *Jul. Bär & Co. Zurich* on 19 June 1937;
- 5 shares of *Société Nationale des Chemins de Fer Belges, Bruxelles 6% Vorzugs – Aktien Serie B Holländische Tranche* each with a face value of Bfr 500.00, which were delivered (“*ausgeliefert*”) to *Jul. Bär & Co. Zch.* on 23 June 1937;
- 25 shares *Société Nationale des Chemins de Fer Belges, Bruxelles 4% (prev. 6%) Vorzugs – Aktien Serie B Holländische Tranche* each with a face value of Bfr 500.00, which were transferred on 1 July 1937 to another account within the Bank, numbered 20937, the owner of which is not known; and
- 90 shares of *Société Nationale des Chemins de Fer Belges, Bruxelles 6% Vorzugs – Aktien Belgische Tranche* each with a face value of Bfr 500.00, which were delivered (“*ausgeliefert*”) to *Jul. Bär & Co. Zch.* on 19 June 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. The CRT previously determined in the March 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 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.

Value of the accounts in the March 2002 Award

In the March 2002 Award, the Account Owner held two custody accounts, one numbered L26586 and the other with an unknown account number. The value of the custody account with the unknown account number remains unaffected.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for custody account L26586 in the March 2002 Award, 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 nominal value of bonds not in default shall be awarded if the market value was below the nominal 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 nominal value on the date the account owner is deemed to have lost control over the account. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owner held the following securities in the custody account numbered L26586:

- 10 shares of *Bank für elektrische Unternehmungen Zürich Aktien A*, each with a face value of SF 500.00, and each with a market value on 19 June 1937 of SF 590.00, for a total market value of SF 5,900.00;⁴
- 15 shares of *Bank für elektrische Unternehmungen Zürich Aktien A*, each with a face value of SF 500.00, and each with a market value on 1 July 1937 of SF 590.00, for a total market value of SF 8,850.00;⁵
- *4% Belgische unif. Anleihe von 1935 1. Serie* bonds with a nominal value of Bfr. 3,000.00. These bonds were of good quality and were trading at 92.25% when sold on 9 February 1937. Since the bonds were of good quality and had market values below their nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was Bfr. 3,000.00,⁶ which was equivalent to SF 441.30;⁷
- *6% Rentenbons Compania Hispano-Americana de Electricidad S.A. Madrid von 1920* bonds with a nominal value of \$MN 450.00. These bonds were of good quality and were trading at 40% when collected on 6 of an illegible month 1936. Since the bonds were of good quality and had market values below their nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was \$MN 450.00, which was equivalent to SF 380.03;⁸
- *6% Rentenbons Compania Hispano-Americana de Electricidad S.A. Madrid von 1920* bonds with a nominal value of \$MN 29,475.00. These bonds were of good quality and were trading at 40% when delivered on 2 of an illegible month 1936. Since the bonds

⁴ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1937.

⁵ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1937.

⁶ The market value for this security was obtained from the Austrian State Archive (Archive of the Republic, Finance). Shortly after the March 1938 incorporation of Austria into the Reich (the “Anschluss”), Jewish residents and non-resident nationals of the Reich, including Austria, who had assets worth at least 5,000.00 Reichsmarks, were ordered to declare the value of all they owned as of 27 April 1938 (the “1938 Census”). The bulk of the 1938 Census records for Austria still exist (more than 48,000 of an estimated 52,000 for Austria). These records serve as the only source of contemporaneous market values for a number of Austrian securities. In a case such as this, a security’s market value may come from a 1938 Census declaration submitted by a person other than the account owner.

⁷ The CRT uses official exchange rates when making currency conversions.

⁸ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1935.

were of good quality and had market values below their nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was \$MN 29,475.00, which was equivalent to SF 24,891.64;⁹

- 6% *O. Englebert Fils & Co. Komm. – A.G. Lüttich von 1930* bonds with a nominal value of SF 8,000.00. These bonds were of good quality and were trading at 99.25% when delivered on 19 January 1937. Since the bonds were of good quality and had market values below their nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was SF 8,000.00;¹⁰
- 6% *O. Englebert Fils & Co. Komm. – A.G. Lüttich von 1930* bonds with a nominal value of SF 6,000.00. These bonds were of good quality and were trading at 104% when transferred on 1 July 1937. The total market value of these bonds was SF 6,240.00;¹¹
- 150 shares of *Société Nationale des Chemins de Fer Belges, 6% Vorzugs – Aktien Serie A Schweizer Tranche*, each with a face value of Bfr. 500.00, and each with a market value on 1 July 1937 of SF 79.00, for a total market value of SF 11,850.00;¹²
- 130 shares of *Société Nationale des Chemins de Fer Belges, Bruxelles 6% Vorzugs – Aktien Serie B Holländische Tranche*, each with a face value of Bfr. 500.00, and each with a market value on 19 June 1937 of Bfr. 707.5, for a total market value of Bfr. 91,975.00, which was equivalent to SF 13,529.52;¹³
- 5 shares of *Société Nationale des Chemins de Fer Belges, Bruxelles 6% Vorzugs – Aktien Serie B Holländische Tranche*, each with a face value of Bfr.500.00, and each with a market value on 23 January 1937 of Bfr 707.5, for a total market value of Bfr 3,537.50, which was equivalent to SF 520.37;¹⁴
- 25 shares of *Société Nationale des Chemins de Fer Belges, Bruxelles 4% (prev. 6%) Vorzugs – Aktien Serie B Holländische Tranche*, each with a face value of Bfr. 500.00, and each with a market value on 1 July 1937 of Bfr 707.5, for a total market value of Bfr 17,687.50, which was equivalent to SF 2,601.83;¹⁵ and
- 90 shares of *Société Nationale des Chemins de Fer Belges, Bruxelles 6% Vorzugs – Aktien Belgische Tranche*, each with a face value of Bfr. 500.00, and each with a market value on 19 June 1937 of Bfr 707.5, for a total market value of Bfr 63,675.00, which was equivalent to SF 9,366.59.¹⁶

The CRT notes that the Bank's records do not indicate who owned the account 20937, into which certain of the securities were transferred. Even if this account was owned by the Account Owner, the records do not indicate when the account was closed, or the disposition of the securities contained within. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

⁹ The market value for this security was obtained from *Zürcher Kursblatt*, 30 December 1935.

¹⁰ The market value for this security was obtained from *Neue Zürcher Zeitung*, 19 January 1937.

¹¹ The market value for this security was obtained from *Neue Zürcher Zeitung*, 1 July 1937.

¹² The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1936.

¹³ The market value for this security was obtained from *Vos' Wekelijksche Uitlotings-Courant*, 28 July 1938.

¹⁴ The market value for this security was obtained from *Vos' Wekelijksche Uitlotings-Courant*, 28 July 1938.

¹⁵ The market value for this security was obtained from *Vos' Wekelijksche Uitlotings-Courant*, 28 July 1938.

¹⁶ The market value for this security was obtained from *Vos' Wekelijksche Uitlotings-Courant*, 28 July 1938.

Therefore, the Bank's records indicate that the total value of custody account L26586 in July 1937 was SF 92,571.28. The Article 29 value of SF 13,000.00, which was used in the March 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 79,571.28. 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 994,641.00.

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).

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