

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED]  
represented by Alexandra Cardarelli

## **in re Accounts of Martha Neumann**

Claim Number: 221250/PY

Award Amount: 123,199.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Martha Neumann (the “Account Owner”). This Award Amendment is to the Account Owner’s published account and to her unpublished account at the [REDACTED] (the “Bank”).

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 20 November 2002 the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “November 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the November 2002 Award. Based upon additional review of the documents in the Austrian State Archives pertaining to the Account Owner, the CRT determines that the Account Owner in fact held a demand deposit account in addition to the custody account at the Bank. Additionally, based upon further evidence regarding the reliability of the declarations made in the Nazi decreed 1938 Census of Jewish-owned assets (the “1938 Census”), the CRT determines that the value of the custody account was 13,000.00 Swiss Francs (“SF”), and that given the foregoing, the November 2002 Award amount shall accordingly be increased by SF 123,199.00.

The CRT notes that in the November 2002 Award, the CRT 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. Based on the information contained in the Bank’s records and in the Austrian State Archive regarding the Account Owner’s 1938 Census declaration, the CRT determined that the Account Owner held one custody account and that the value of the custody account was SF 180.90 as of 14 March 1939. Additionally, in the November 2002 Award, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of her custody account. Finally, the CRT determined that the November 2002 Award amount was SF 2,170.80.

## **Information Available from the Austrian State Archives**

In the November 2002 Award, the CRT indicated that according to the Account Owner's 1938 Census declaration, the Account Owner held a custody account at the Zurich branch of the Bank with a value of 79.80 Reichmarks ("RM") as of 21 December 1938. Upon further review of these documents, the CRT notes that the Account Owner's 1938 Census declaration indicates that the value of the custody account as of 21 December 1938 was in fact RM 2,850.00 (equivalent to SF 5,001.18), and that the Account Owner also held a demand deposit account at the Zurich branch of the Bank, which held a balance of SF 282.90 (equivalent to RM 161.62) as of the same date.

## **The CRT's Analysis**

### The Issue of Who Received the Proceeds

With respect to the demand deposit account, which was not awarded in the November 2002 Award, the facts of this case are similar to other cases that have come before the CRT in which residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that the Account Owner lived in Austria before emigrating to the United States in 1938, and therefore could not have repatriated the account without losing ultimate control over its proceeds; and given the application of Presumptions (d), (h) and (j) of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the proceeds of the demand deposit account were not paid to the Account Owner or her heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether Account Owners or their heirs received the proceeds of their accounts.

### 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 November 2002 Award that the claim is admissible in accordance with Article 23 of the Rules Governing the Claims Resolution Process,<sup>1</sup> 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 her heirs received the proceeds of her custody account. Finally, the CRT has additionally determined that neither the Account Owner nor her heirs received the proceeds of her demand deposit account.

### Amount of the Award Amendment

In the November 2002 Award, the CRT determined that the value of the Account Owner's

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<sup>1</sup> This was subsequently renumbered as Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules")

custody account was SF 180.90, which is the amount recorded in the Bank's records as the value of the custody account as of 14 May 1939. The CRT notes that the Account Owner in fact declared in the 1938 Census that the value of her custody account was RM 2,850.00 (equivalent to SF 5,001.18), which the CRT notes is higher than the amount in the Bank's records. The CRT further notes that the Account Owner also declared in the 1938 Census that she held a demand deposit account at the Bank with a balance of SF 282.90.

However, the CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all her assets, or understated their value, in the belief that this might help her safeguard some of them. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in a custody account is less than SF 13,000.00, and the amount in a demand deposit account is less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the custody account shall be determined to be SF 13,000.00 and the amount in the demand deposit account shall be determined to be SF 2,140.00.

Accordingly, the CRT does not find that the value of the custody and the demand deposit accounts indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's custody account shall be determined to be SF 13,000.00, and that the value of the Account Owner's demand deposit account shall be determined to be SF 2,140.00. Therefore, the total value of these accounts as determined by Article 29 of the Rules is SF 15,140.00. The amount of SF 5,284.08, which is the value for these accounts used in the November 2002 Award, is then subtracted from the Article 29 value, resulting in a difference of SF 9855.92. 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. Accordingly, the amount of the November 2002 Award is increased by SF 123,199.00, which reflects the adjusted difference between the value of the Account Owner's custody account recorded in the 1938 Census and the value determined by Article 29 of the Rules, and which also reflects the value of the Account Owner's demand deposit account, which was not previously awarded.

### **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  
21 October 2004