

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹
represented by [REDACTED]

in re Accounts of Walter Rosenbaum

Claim Number: 401361/CU

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 190,360.25 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Max and Walter Rosenbaum.² This Award Amendment is to the published accounts of Walter Rosenbaum (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 12 May 2006, the Court approved an Award to the Claimant for a custody account and one demand deposit account owned by the Account Owner (the “May 2006 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 2006 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 12 May 2006, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Walter Rosenbaum (the “May 2006 Award”), which is the subject of this Award Amendment.

² The CRT treated the claim to this account in a separate decision. See *in re Accounts of Max Rosenbaum* (approved on 19 July 2007).

The May 2006 Award

In the May 2006 Award, the CRT determined that the Account Owner owned a custody account 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 was entitled to the entire award amount.

Finally, the CRT determined that the Bank's record did not indicate the value of the custody account, 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 May 2006 Award, the Bank's record indicates the name, the city of domicile and the profession of the Account Owner. According to this record, the Account Owner was a lawyer and resided in Vienna, Austria. The record indicates that the Account Owner held a custody account, numbered L35479, and a demand deposit account, which were closed on 22 March 1939 and 31 March 1939, respectively.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account L35479. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within custody account L35479.

These documents indicate that at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- 2.5% *British Consols* bonds with a face value of 500.00 Pounds Sterling ("£"), which were transferred (*übertragen*) on 28 September 1938 to another account in the Bank, numbered 2269, the owner of which is not known (the actual repository of the shares is listed as the *Midland Bank Ltd.* in London, England);
- 5% *Funding Gold-Zertifikate Königreich Jugoslawien* bonds with a face value of 31.00 U.S. Dollars ("US\$"), which were sold (*verkauft*) on 20 August 1938 (the actual repository of the shares is listed as the *National City Bank of New York* in New York, New York, the United States);
- 5% *Kingdom of Yugoslavia funding bond, second Series per 1.Nov. 1956* bonds with a face value of US\$ 200.00, which were transferred on 1 October 1938 to another account in the Bank, numbered 2269, the owner of which is not known;
- 7% *Kingdom of Yugoslavia, sec.ext.Gold Bonds Serie B per 1.May 1962* bonds with a face value of US\$ 3,000.00, which were transferred on 28 September 1938 to another account in the Bank, numbered 2269, the owner of which is not known;

- 12 shares of *Etablissements Vautheret, Gros & Laforge S.A., Lyon*, with a face value of FF 100.00 each which were transferred on 20 March 1938 to another account in the Bank, numbered 2269, the owner of which is not known (the actual repository of the shares is listed as the *Crédit Lyonnais* in Paris, France); and
- 100 shares of *Union Corporation Ltd. a sh. 12/6* shares, which were transferred on 28 September 1938 to another account in the Bank, numbered 2269, the owner of which is not known (the actual repository of the shares is listed as the *Midland Bank Ltd.* in London).

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 May 2006 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 May 2006 Award

In the May 2006 Award, the Account Owner held custody account L35479 and one demand deposit account. The value of the demand deposit account remains unaffected.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for custody account L35479 in May 2006, 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. However, if a bond is in default, the award valuation shall be the market value on or as close as possible to the relevant date. Stocks and perpetual bonds are valued at market value.

According to the additional information from the Bank, the Account Owner held custody account L35479 containing the following securities:³

- *2.5% British Consols*, bonds with a face value of £ 500.00. These bonds were trading at 67% when transferred on 28 September 1938. As these were perpetual bonds, they shall be valued at their market value of £ 335.00, which was equivalent to SF 7,158.95;⁴
- *5% Funding Gold-Zertifikate Königreich Jugoslawien*, bonds with a face value of US\$ 31.00. These bonds were of good quality and were trading at 46.25% when sold on 20 August 1938. Since the bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was U.S.\$ 31.00, which was equivalent to SF 135.47;⁵
- *5% Kingdom of Yugoslavia funding bond, second Series per 1.Nov. 1956*, bonds with a face value of US\$ 200.00. These bonds were of good quality and were trading at 54.75% when transferred on 1 October 1938. Therefore, these bonds will be valued at their total face value of U.S.\$ 200.00, which was equivalent to SF 874.00;⁶
- *7% Kingdom of Yugoslavia, sec.ext.Gold Bonds Serie B per 1.May 1962*, bonds with a face value of US\$ 3,000.00. These bonds were in default and trading at 17.88% when transferred on 28 September 1938. Therefore, these bonds shall be valued at their market value of US\$ 536.25, which was equivalent to SF 2,343.41;⁷ and
- 12 shares of *Etablissements Vautheret, Gros & Laforge S.A., Lyon* with a face value of FF 100.00 each, which on 27 April 1938 had a market value of FF 65.00 each, for a total market value of FF 780.00, which was equivalent to SF 86.74;⁸
- 100 shares of *Union Corporation Ltd. a sh. 12/6*, which on 28 September 1938 had a market value of £ 8.25 each, for a total market value of £ 825.00, which was equivalent to SF 17,630.25.

The CRT notes that the Bank's records do not indicate who owned account 2269, into which these securities were transferred, and that this account number appears as the transfer destination for other, unrelated accounts. Even if account 2269 was held in part or in whole by the Account Owner, the records do not indicate when the account was closed, or the disposition of the

³ The CRT uses official exchange rates when making currency conversions.

⁴ The market value for this security was obtained from *The Financial Times*, 28 September 1938. The CRT notes that perpetual bonds have no fixed maturity date and that it cannot be redeemed at the option of the holder, and are therefore, valued at their market price.

⁵ The market value for this security was obtained from the *Moody's Manual of Investments, American and Foreign: Government Securities*, Moody's Investors Service, New York, 1940, pp. 1941.

⁶ The market value for this security was obtained from the *Moody's Manual of Investments, American and Foreign: Government Securities*, Moody's Investors Service, New York, 1940, pp. 1941.

⁷ The market value for this security was obtained from the *New York Times*, 29 September 1938.

⁸ The market value for this security was obtained from documents held in 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 Reichsmark, were ordered to declare the value of all their assets 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.

securities contained within it. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

Therefore, the Bank's records indicate that the total value of the custody account in March 1939 was SF 28,228.82. The Article 29 value of SF 13,000.00, which was used in the May 2006 Award, is then subtracted from the actual historic value, resulting in a difference of SF 15,228.82. 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 190,360.25.

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
16 April 2010