

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]<sup>1</sup>

## **in re Accounts of Max Rosenberg**

Claim Numbers: 212691/JG; 213778/JG

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 603,750.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Max Rosenberg (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 15 July 2003, the Court approved an Award to the Claimants for one custody account and one demand deposit account owned by the Account Owner (the “July 2003 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 regarding 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 July 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

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<sup>1</sup> On 15 July 2003 the Court approved an award to [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) and to [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) for the accounts of Max Rosenberg (the “July 2003 Award”), which is the subject of this Award Amendment.

## **The July 2003 Award**

In the July 2003 Award, the CRT determined that the Account Owner owned a custody account and a demand deposit account. The CRT further 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. Additionally, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his accounts and that the Claimants were each entitled to one-half of the award amount.

Finally, the CRT determined that the Bank's records 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 Records**

As detailed in the July 2003 Award, the Bank's records indicate the name and the two cities of residence of the Account Owner. The records indicate that the Account Owner held one custody account, numbered L32491, and one demand deposit account, both of which were closed on 31 May 1933.

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

- *7% Gold Pfbr. Thüringische Landes-Hypothekenbank, Weimar 1926, Serie 7* bonds with a face value of 50,000.00 Reichsmark ("RM"), which were sold on 31 May 1933.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

### Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of the Claimants. The CRT previously determined in the July 2003 Award that the claims are admissible in accordance with Article 18 of the Rules, that the Claimants have plausibly demonstrated that they 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 July 2003 Award

In the July 2003 Award, the Account Owner held one custody account 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 the custody account in July 2003, 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

According to the additional information from the Bank, the Account Owner held a custody account with the following security:

- *7% Gold Pfbr. Thüringische Landes-Hypothekenbank, Weimar 1926, Serie 7* bonds with a face value of RM 50,000.00. A similar bond was of good quality and trading at 83.75% when these bonds were sold on 31 May 1933.<sup>2</sup> Therefore, these bonds will be valued at their face value of RM 50,000.00, which was equivalent to SF 61,300.00.<sup>3</sup>

Therefore, the Bank’s records indicate that the total value of the custody account was SF 61,300.00. The Article 29 value of SF 13,000.00, which was used in the July 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 48,300.00. 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 603,750.00.

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<sup>2</sup> The CRT was unable to determine the market value for this particular security. However, the market value for *7% Gold Pfbr. Thüringische Landes-Hypothekenbank, Weimar 1926, Serie 21* bonds was available from the *Frankfurter Zeitung*, 5 January 1933. As there is a record of a closely related market prices for the serial issues of this security, it was deemed appropriate to consider a price for a different series to be representative of the series in question.

<sup>3</sup> The CRT uses official exchange rates when making currency conversions.

### Division of the Award Amendment

According to Article 23(2)(a) of the Rules, if a claimant has submitted an Account Owner's will or other inheritance documents, the Award will provide for distribution among beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimants submitted the Account Owner's will in which the Account Owner bequeathed his entire Estate to the Claimants in equal shares. Accordingly, the Claimants are each entitled to one-half of the total Award Amendment amount.

### **Scope of the Award Amendment**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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  
25 September 2008