

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to the Estate of Claimant [REDACTED 1]

to Claimant [REDACTED 2],
represented by [REDACTED]

and to Claimant [REDACTED 3]¹

in re Accounts of Rosa Straus (Strauss)

Claim Numbers: 200137/GO; 203884/GO; 209866/GO;² 216506/GO

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 219,646.38 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Benno Strauss,³ the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) to the accounts of Rosa and Emanuel (Emil) Strauss (Straus),⁴ and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Max (Emanuel) Strauss.⁵ This Award Amendment is to the published accounts of Rosa Straus (Strauss) (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

¹ On 12 October 2007, the Court approved an award to [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) for the accounts of Rosa Straus (Strauss) (the “October 2007 Award”), which is the subject of this Award Amendment.

² The CRT notes that in the October 2007 Award, Claimant [REDACTED 2]’s claims, numbered 203884 and 209866, were determined to be duplicate claims and were treated under the consolidated Claim Number 209866. Upon further review, the CRT has determined that these claims are not duplicates and is treating them under the two separate claim numbers 203884 and 209866.

³ The CRT will treat the claim to this account in a separate determination.

⁴ In a separate decisions, the CRT treated Claimant [REDACTED 2]’s claims to the account of Emanuel (Emil) Strauss (Straus). See *In re Accounts of Emanuel Straus* (approved on 19 July 2007) and *In re Accounts of Emanuel Straus* (approved on 4 August 2008).

⁵ In a separate decision, the CRT treated Claimant [REDACTED 3]’s claim to the account of Max (Emanuel) Strauss. See *In re Accounts of Max Strauss* (approved on 8 August 2007).

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 October 2007, the Court approved an Award to the Claimants for a custody account and one demand deposit account owned by the Account Owner (the “October 2007 Award”). At the time of that award, the only records available to the CRT consisted of an extract from archival records regarding the 1945 Swiss Freeze of assets held in Switzerland by citizens of Germany and the territories incorporated into the Third Reich (the “1945 Freeze”) and an extract from a database of the Swiss Compensation Office. These records 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 October 2007 Award based upon this additional information recently forwarded to the CRT by the Bank.

The October 2007 Award

In the October 2007 Award, the CRT determined that the Account Owner owned one custody account and one 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 Claimant [REDACTED 1]’s relative, Claimant [REDACTED 2]’s relative, and Claimant [REDACTED 3]’s relative are different persons. However, given that the Claimants identified all published information about the Account Owner available in the records pertaining to the account; that the information provided by each claimant supported and in no way contradicted any information available in the records of the account; that there is no additional information in the available records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that the other claims to this account were disconfirmed because those claimants provided a different marital status than the marital status of the Account Owner, the CRT found the Claimants have each plausibly identified the Account Owner.

In the October 2007 Award, the CRT further determined that it is plausible that the Account Owner did not receive the proceeds of her account and that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] were each entitled to one-third share of the award amount.

Finally, the CRT determined that the available 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 October 2007 Award, the available records indicate the name, marital status and country of residence of the Account Owner. According to these records, the Account Owner was *Frau* (Mrs.) Rosa Strauss (Straus), who resided in Germany. The records indicate that the Account Owner held a demand deposit account that was frozen in the 1945 Freeze of German assets and a custody account, numbered 32046, which was closed on 13 October 1934.

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 two 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:

- *Schuldscheine der Konversionskasse für Deutsche Auslandsschulden, Berlin Aufdruck 1/1934* bonds with a face value of 525.00 Reichsmark (“RM”) which went out of the account on 14 August 1934; and
- *8% Preussische-Hypotheken-Actien-Bank, Berlin Serie 12* bonds with a face value of 25,000.00 Gold Mark (“GM”) which on 11 October 1934 were transferred (*übertragen*) to another account at the Bank, numbered 19594, the owner of which is not known.

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 four 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 October 2007 Award that the claims are admissible in accordance with Article 18 of the Rules Governing the Claims Resolution Process, as amended (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 her heirs received the proceeds of her accounts.

Value of the accounts in the October 2007 Award

In the October 2007 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 October 2007, 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 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. Additionally, 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.

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

- *Schuldscheine der Konversionskasse für Deutsche Auslandsschulden, Berlin Aufdruck 1/1934* bonds with a face value of RM 525.00. These bonds were in default and were trading at 30.05 percent at end 1935, the closest available date to that when the asset left the account. Therefore, these bonds shall be valued at their market value of RM 157.76, which was equivalent to SF 191.71.^{6, 7}
- *8% Preussische-Hypotheken-Actien-Bank, Berlin Serie 12* bonds with a face value of GM 25,000.00. These bonds were of good quality and were trading at approximately 92 percent when transferred to another custody account in the Bank on 11 October 1934. Since the bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value of these bonds was GM 25,000.00, which was equivalent to SF 30,380.00.⁸

The CRT notes that the Bank's records do not indicate who owned the account numbered 45293, into which all of these securities were transferred. Even if this account was owned by the Account Owner, these 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.

⁶ The CRT uses official exchange rates when making currency conversions.

⁷ The market price for this security was obtained from the *Zürcher Kursblatt*, 31 December 1935 by averaging the quotations for Series IA and IB.

⁸ The market value for this security was obtained from the *Frankfurter Zeitung*, 12 October 1934. The actual quote was for the Series 14 issue, but according to Special Master Junz, prices for these issues generally were not far apart.

Therefore, the Bank's records indicate that the total value of the custody account was SF 30,571.71. The Article 29 value of SF 13,000.00, which was used in the October 2007 Award, is then subtracted from the actual historic value, resulting in a difference of SF 17,571.71. 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 219,646.38.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, the Estate of Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] are each entitled to one-third of the Award Amendment amount, or SF 73,215.46 each.

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