

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]

and to Claimant [REDACTED 2]¹

in re Accounts of Fritz Tobias and Johanna Tobias

Claim Numbers: 003774/DE; 003941/DE

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 150,000.00 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 Johanna Tobias and the published accounts of A. Hager.² This Award is to the published accounts of Johanna Tobias (“Account Owner Johanna Tobias”) and Fritz Tobias (“Account Owner Fritz Tobias”), (together the “Account Owners”) at the Zurich branch of 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 31 December 2005, the Court approved an Award to the Claimants for one custody account and one demand deposit owned by the Account Owners (the “December 2005 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

¹ On 31 December 2005, the Court approved an award to Claimants [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) for the accounts of Johanna Tobias and Fritz Tobias (the “December 2005 Award”), which is the subject of this Award Amendment.

² The CRT will treat the Claimant’s claims to the account of A. Hager in a separate determination.

findings set out in the December 2005 Award based upon this additional information recently forwarded to the CRT by the Bank.

The December 2005 Award

In the December 2005 Award, the CRT determined that the Account Owners owned one custody account and one demand deposit account. The CRT further determined that the Claimants plausibly identified the Account Owners, that they plausibly demonstrated that they are related to the Account Owners, and that they made a plausible showing that the Account Owners were Victims of Nazi Persecution.³ Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their accounts and that the Claimants were each entitled to one half of the 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 December 2005 Award, the Bank's record indicates the name and addresses of the Account Owners. The record indicates that the Account Owners were Johanna Tobias and Fritz Tobias and that they resided in Berlin, Germany. According to this record the Account Owners held one demand deposit and one custody account, numbered L30774. The Bank's record indicates that the demand deposit account was opened on 20 November 1927 and closed on 10 July 1936 and that the custody account was opened on 30 November 1927 and closed on 22 December 1936. There is no evidence in the Bank's record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account 30774. 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, numbered 30774, it contained the following securities:

- 4 ½% *Kanton Genf von 1930* bonds with a face value of 3,000.00 Swiss Francs ("SF") which were sold on 18 March 1933;
- 4 ½% *Kanton Genf von 1930* bonds with a face value of SF 3,000.00 which were sold on 17 June 1933;

³ The CRT notes that the Claimants did not identify Account Owner Fritz Tobias. However, the CRT found in the December 2005 award that as the Claimants were young children during the Second World War and it was unlikely that they would possess detailed information regarding their distant relatives, their failure to identify Account Owner Fritz Tobias did not undermine the plausibility of their identification of Account Owner Johanna Tobias.

- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 4,000.00 which were sold on 18 August 1933;
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 3,000.00 which were sold on 3 April 1934;
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 3,000.00 which were sold on 28 March 1935; and
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 9,000.00 which were sold on 18 December 1936.

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 December 2005 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 Owners, and that it is plausible that neither the Account Owners nor their heirs received the proceeds of their accounts.

Value of the accounts in the December 2005 Award

In the December 2005 Award, the Account Owners held one custody account and one demand deposit. 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 December 2005, 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 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 nominal 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:

- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 99.4% when sold on 18 March 1933. 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 SF 3,000.00;⁴
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 99.4% when sold on 17 June 1933. 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 SF 3,000.00;⁵
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 4,000.00. These bonds were of good quality and were trading at 99.4 % when sold on 18 August 1933. 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 SF 4,000.00;⁶
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 92% when sold on 3 April 1934. 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 SF 3,000.00;⁷
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 3,000.00. These bonds were of good quality and were trading at 71.5% when sold on 28 March 1935. 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 SF 3,000.00;⁸ and
- *4 ½% Kanton Genf von 1930* bonds with a face value of SF 9,000.00. These bonds were of good quality and were trading at 99% when sold on 18 December 1936. 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 SF 9,000.00.⁹

Therefore, the Bank's records indicate that the total value of the custody account in December 1936 was SF 25,000.00. The Article 29 value of SF 13,000.00, which was used in the December 2005 Award, is then subtracted from the actual historic value, resulting in a difference of SF

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁷ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1934.

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

⁹ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1936.

12,000.00. 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 150,000.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimants are siblings. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one half of the total award 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 Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
29 September 2008