

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

To the Estate of Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED 2]

in re Accounts of Erich and Josepha Urbach

Claim Number: 500948/CU

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 258,880.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Erich Urbach. This Award Amendment is to the published and unpublished accounts of Erich Urbach (“Account Owner Erich Urbach”) and Josepha Urbach (“Account Owner Josepha Urbach”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 9 March 2005, the Court approved an Award to the Claimant for a custody account and a demand deposit account owned by the Account Owners (the “March 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 findings set out in the March 2005 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 9 March 2005, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Erich and Josepha Urbach (the “March 2005 Award”), which is the subject of this Award Amendment.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Erich Urbach is indicated as having one account. Upon careful review, the CRT concludes that Erich Urbach held two accounts, both jointly with Josepha Urbach, whose name was not published on the ICEP List.

The March 2005 Award

In the March 2005 Award, the CRT determined that the Account Owners owned a custody account and a demand deposit account. The CRT further determined that the Claimant plausibly identified the Account Owners, that he plausibly demonstrated that he is related to the Account Owners, and that he made a plausible showing that the Account Owners were Victims of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their accounts and that the Claimant and his brother, whom he represents, 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 March 2005 Award, the Bank's records indicate the names and the city of domicile of the Account Owners. According to these records, the Account Owners resided in Vienna, Austria. The Bank's records indicate that the Account Owners jointly held a demand deposit account and a custody account, numbered L58188. According to the Bank's records, the demand deposit account was closed on 20 March 1938, and the custody account was closed on 4 May 1938.

As noted above, the Bank recently provided the CRT with additional documents regarding the joint 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. Upon careful review of these new documents, the CRT has determined that the custody account was, in fact, numbered 58183.

These documents indicate that at the time the Account Owners were deemed to have lost control over account 58183, it contained the following securities:

- *7% Austrian Government International Loan von 1930, sinking fund gold bonds per 1. Juni 1957 Amerikanische Tranche* with a face value of 5,000.00 U.S. Dollars ("US\$"), which were sold on 18 March 1938;
- *7% Internationale Anleihe der Republik Oesterreich von 1930, Englische Tranche* bonds with a face value of 1,000.00 Pounds Sterling ("£"), which were sold on 22 March 1938 (the actual repository of the shares is listed as the midland Bank Ltd. In London, United Kingdom); and
- 100 shares of *Radio Corporation of America \$3.50 cum.conv.first pref. shares ohne Nennwert foreign share certificates*, marked exempted (*freigestellt*) and transferred out of the account on 29 April 1938 (the actual repository of the shares is listed as the *Chase National Bank of the City of New York* in New York, New York, the United States).

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 March 2005 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 he is 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 March 2005 Award

In the March 2005 Award, the Account Owners 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 March 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 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. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owners held custody account 56183 with the following securities:³

- *7% Austrian Government International Loan von 1930, sinking fund gold bonds per 1. Juni 1957 Amerikanische Tranche* with a face value of US\$ 5,000.00. These bonds were in default and trading at 31.69% when sold on 18 March 1938. Therefore, these bonds shall be valued at their market value of US\$ 1,584.50, which was equivalent to SF 6,924.27;⁴
- *7% Internationale Anleihe der Republik Oesterreich von 1930, Englische Tranche* bonds with a face value of £ 1,000.00. These bonds were in default and trading at 30.00% when

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

⁴ The market value for this security was obtained from the *New York Times*, 19 March 1938.

sold on 22 March 1938. Therefore, these bonds shall be valued at their market value of £ 300.00, which was equivalent to SF 6,411.00;⁵

- 100 shares of *Radio Corporation of America \$3.50 cum.conv.first pref. shares ohne Nennwert foreign share certificates*, which on 29 April 1938 had a market value of US\$ 46.63 each, for a total market value of US\$ 4,662.50, which was equivalent to SF 20,375.13.⁶

Therefore, the Bank's records indicate that the total value of the custody account was SF 33,710.40. The Article 29 value of SF 13,000.00, which was used in the March 2005 Award, is then subtracted from the actual historic value, resulting in a difference of SF 20,710.40. 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 258,880.00.

Division of the Award Amendment

According to Article 23 (1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant represents his brother. Accordingly, the Claimant and his brother are each entitled to one-half of the total award amount.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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
11 August 2008

⁵ The market value for this security was obtained from *the Financial Times*, 23 March 1938.

⁶ The market value for this security was obtained from *the New York Times*, 30 April 1938.