

# CLAIMS RESOLUTION TRIBUNAL

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In re Holocaust Victim Assets Litigation

Case No. CV96-4849

## **Certified Award Amendment**

to Claimant [REDACTED]

## **in re Account of Felix Wertheimer**

Claim Numbers: 208328/MC; 216675/MC<sup>1</sup>

Amendment Amount: 187,790.88 Swiss Francs

This Certified Amendment is to the award *In re Account of Felix Wertheimer*, which was originally approved by the Court on 6 November 2001, and any subsequent amendments.

This Amendment is one of several Amendments submitted to the Court at the same time in one set. Each Amendment in this set is necessitated by one or more of five general reasons, which are described below and in the Court Order approving this set. The specific reason for the Amendment in this case is set forth below, following the description of the general reasons.

### **General Reasons for Amendments**

#### 1. Adjustment of Low Value Accounts to Presumptive Value

During the course of the Claims Resolution Process, the Claims Resolution Tribunal (“CRT”) has developed certain guiding practices, which have been incorporated into decisions later approved by the Court. Thus, in an Order dated 28 May 2002, the Court approved an Order amending the Rules Governing the Claims Resolution Process (the “Rules”) to address, among other issues, the use of the average 1945 account values for accounts with low values and the use of other plausible evidence for determining account values. That Order amended the Rules to extend average value presumptions, previously used only when the value of an account was unknown, to accounts whose 1945 values were less than the average 1945 value of an account of similar type, in the absence of plausible evidence to the contrary.

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<sup>1</sup> During the course of the claims resolution process, the CRT may have identified additional claims filed by the same claimants or co-claimants that contain the name of the claimed account owner addressed in the original decision upon which this adjustment is based. If so, these claims have since been joined pursuant to Article 37 of the Rules Governing the Claims Resolution Process and are accordingly listed above.

2. Adjustment of Account Values Reported in the 1938 Census to Presumptive Value

Additionally, on 21 October 2004, the Court approved an Order amending the CRT's practice of basing account valuations on the value of assets declared pursuant to a decree issued by the Nazi Regime on 26 April 1938, requiring all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). Pursuant to this Order, in cases in which the account owner's 1938 Census return shows an account value below the presumptive value for the type of account at issue, the CRT now bases the account valuation, in the absence of plausible evidence to the contrary, on the presumptive value for the type of account at issue.

3. Adjustment of Account Values for Which Interest Accruals Had Been Deducted

The Court's Order of 21 October 2004 also amended the practice of calculating the historic (1945) value of certain accounts in cases where bank records provide a post-1945 value. For reasons detailed there, that Order approved suspending the deduction of interest accruals when determining account valuation, absent bank documentation showing interest actually having been credited to the account over the period in question.

4. Reclassification of "Depositenkonten" (Time Deposit Accounts)

Following her appointment as Special Master, Dr. Helen B. Junz noted that the CRT treated accounts designated in the bank records as "time deposits" ("*Depositenkonten*") as accounts of "other" type that, according to Article 29 of the Rules, had a presumptive value of SF 2,200.00. Special Master Junz advised the CRT that the more appropriate classification for this type of account was as an account of unknown type, which has a presumptive value of SF 3,950.00. Since then, the CRT has followed Special Master Junz's determination in awards that were subsequently approved by the Court.

5. Adjustment of Bond Values in Accordance with the Guidelines for the Valuation of Securities

In 2005, Special Master Junz circulated to the CRT Guidelines for the Valuation of Securities. According to these Guidelines, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal 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, or if the bonds were in default. Following their circulation to the CRT, the Guidelines were incorporated into decisions subsequently approved by the Court.

6. Incorporation of Account Information Provided by the Banks to the CRT via “Voluntary Assistance”

Article 6 of the Rules allows the CRT to seek the voluntary assistance of banks that may have information in their files on an account (“Voluntary Assistance”). Pursuant to Article 6, Defendant Banks have provided the CRT with additional information about previously awarded accounts that necessitate an amendment of the original award.

**Specific Reasons for this Amendment and Amendment Amount**

In this case, the Amendment amount represents the difference in value of fifteen bonds originally awarded at a market value of SF 21,576.40, which were of good quality, and are now awarded at their face value of SF 36,599.67.

The table below summarizes the issue necessitating the Amendment in this case, as well as the total current value of the Amendment. In each case, the values awarded were calculated by subtracting the historical 1945 value previously awarded from the newly adjusted 1945 value. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total Award Amendment amount of SF 187,790.88.

<b>Low Value Account Issue</b>	<b>1938 Census Issue</b>	<b>Incorporation of Bank Information Obtained via Voluntary Assistance</b>	<b>Interest Deduction Issue</b>	<b>Reclassification of Time Deposit Accounts</b>	<b>Bond Valuation Issue</b>	<b>Total Award Amendment Amount (SF)</b>
					187,790.88	187,790.88

**Certification of the Amendment**

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
19 January 2010