

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

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

## **in re Accounts of Josefine Winter**

Claim Number: 224228/RS<sup>2</sup>

Original Award Amount: 181,680.00 Swiss Francs

Award Amendment Amount: 3,147,226.75 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Josefine Winter (the “Account Owner”), at the Zurich branch of [REDACTED] (the “Bank”).

All award amendments are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

## **Procedural History**

On 26 November 2002, the Court approved an Award to the Claimant for a custody account and one demand deposit account owned by the Account Owner (the “November 2002 Award”). At the time of that award, the bank records then 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 November 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

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<sup>1</sup> On 26 November 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Josefine Winter (the “November 2002 Award”), which is the subject of this Award Amendment.

<sup>2</sup> The Claimant submitted nine additional claims, which are registered under the Claim Numbers 224073, 224236, 402055, 224045, 224068, 224126, 224229, 224215, and 224219. The CRT treated the claim to the account of Robert Winter in a separate decision. See *in re Account of Robert Winter* (approved on 19 July 2007). In determinations dated 9 October 2007, 23 January 2008, and 18 April 2008, the CRT treated the Claimant’s claims numbered 224045, 224068, 224126, and 224219. The CRT will treat the Claimant’s remaining claims in separate determinations.

## **The November 2002 Award**

In the November 2002 Award, the CRT determined that the Account Owner owned one custody account and one demand deposit account. The CRT further determined that the Claimant plausibly identified the Account Owner, that she plausibly demonstrated that she is related to the Account Owner, and that she 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 her custody account and demand deposit account and that the Claimant was solely entitled to the entire 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 Records**

As detailed in the November 2002 Award, the Bank's record indicates the name and city of residence of the Account Owner, and indicates that she was married. The record indicates that the Account Owner held one custody account, which was closed on 11 August 1938, and one demand deposit account, which was closed on 20 August 1938.

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 when the Account Owner was deemed to have lost control over the account, it contained the following securities:

- *3% Schuldverschreibungen der Konversionskasse für deutsche Auslandsschulden (German Funding Bonds) per 1 Januar 1945* with a nominal value of 5,000.00 United States Dollars ("US \$"), which were sold on 20 April 1938;
- *3 Nestlé & Anglo-Swiss Holding Company Ltd.* shares each with a nominal value of SF 700.00, with accompanying shares of Unilac each with a nominal value of US \$12.00, which were sold on 6 April 1938;
- *37 Nestlé & Anglo-Swiss Holding Company Ltd.* shares each with a nominal value of SF 700.00, with accompanying shares of Unilac each with a nominal value of US \$12.00, which were sold on 23 April 1938;
- *4% Argentinische äussere Anleihe 1933* bonds with a nominal value of SF 5,000.00, which were transferred to the *Nederlandsch Administ. En Trustkantoor Amsterdam* on 23 April 1938;
- *3.5% Province of Buenos Aires Assented Bonds 1906/9* with a nominal value of £1,000.00, which were transferred out of the account on 23 April 1938;

- 5.5% *Rheinkraftwerk Albruck-Dogern Aktiengesellschaft, Waldshut am Rhein, 1930* bonds with a nominal value of SF 10,000.00, which were transferred to the *Nederlandsch Administ. En Trustkantoor Amsterdam* on 23 April 1938;
- 5% *International Telephone & Telegraph Corporation Gold Debentures, per 1 February 1955* bonds with a nominal value of US \$3,000.00, which were sold on 20 April 1938;
- 1,500 *Canadian Pacific Railway Company 4% non cumulative preferred stock*, which were sold on 6 August 1938;
- 50 *Chesapeake & Ohio Railway Company* common shares each with a value of US \$25.00, which were sold on 20 April 1938;
- 20 *Compania Hispano Americana de Electricidad Madrid Serie A/C* shares each with a nominal value of 500.00 Spanish Pesetas (“SP”), which were transferred to the *Nederlandsch Administ. En Trustkantoor Amsterdam* on 23 April 1938;
- 40 *Electric Bond & Share Company US \$5.00 cumulative preferred shares*, which were sold on 20 April 1938;
- 60 *Allminna Svenska Elektriska Aktiebolaget ASEA* shares each with a nominal value of 100.00 Swedish Krona (“SK”), which were transferred to the *Nederlandsch Administ. En Trustkantoor Amsterdam* on 4 May 1938;
- 100 *Bolsover Colliery Company Limited* common shares, which were sold on 6 August 1938;
- 100 *Distillers Company Limited* common shares, which were sold on 6 August 1938;
- 390 *Hawker Siddeley Aircraft Company Limited* common shares each with a nominal value of £5.00, which were sold on 28 May 1938;
- 130 *Hawker Siddeley Aircraft Company Limited* common shares each with a nominal value of £5.00, which were sold on 6 August 1938;
- 200 *Imperial Chemical Industries Ltd.* common shares, which were sold on 6 August 1938;
- 50 *Imperial Tobacco Company of Great Britain & Ireland Limited* common shares, which were sold on 6 August 1938;
- 150 *International Nickel Company of Canada Limited* common shares, which were sold on 20 April 1938;
- 100 *Socony Vacuum Oil Company Inc.* common shares each with a nominal value of US \$15.00, which were sold on 20 April 1938;
- 200 *F.W. Woolworth & Co. Ltd.* common shares each with a nominal value of £5.00, which were sold on 6 August 1938; and
- 50 *Aktiebolaget Bofors* shares with a nominal value of SK 100.00, which were transferred to the *Nederlandsch Administ. En Trustkantoor Amsterdam* on 23 April 1938.

## **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 November 2002 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 she is 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 November 2002 Award

In the November 2002 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 November 2002, 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 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. Stocks are valued at market value.

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

- *3% Schuldverschreibungen der Konversionskasse für deutsche Auslandsschulden (German Funding Bonds) per 1 Januar 1945* with a nominal value of US \$5,000.00. These bonds were in default and trading at 27.75% when sold on 20 April 1938.<sup>3</sup> Therefore, these bonds shall be valued at their total market value of US \$1,387.50, which was equivalent to SF 6,063.38;<sup>4</sup>
- *3 Nestlé & Anglo-Swiss Holding Company Ltd.* shares each with a nominal value of SF 700.00, with accompanying shares of *Unilac* each with a nominal value of US \$12.00, each combined share having a market value on 6 April 1938 of SF 1,162.00, for a total market value of SF 3,486.00;<sup>5</sup>
- *37 Nestlé & Anglo-Swiss Holding Company Ltd.* shares each with a nominal value of SF 700.00, with accompanying shares of *Unilac* each with a nominal value of US \$12.00,

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<sup>3</sup> The market value for this security was obtained from *Moody's Governments 1940*, at 1832.

<sup>4</sup> The CRT uses official exchange rates when making currency conversions.

<sup>5</sup> The market value for this security was obtained from the *Neue Zürcher Zeitung*, 6 April 1938.

each combined share having a market value on 23 April 1938 of SF 1,201.00, for a total market value of SF 44,437.00;<sup>6</sup>

- 4% *Argentinische äussere Anleihe 1933* bonds with a nominal value of SF 5,000.00. These bonds were of good quality and were trading at 100% when transferred on 23 April 1938. The total market value of these bonds was therefore SF 5,000.00;<sup>7</sup>
- 3.5% *Province of Buenos Aires Assented Bonds 1906/9* with a nominal value of £1,000.00. These bonds were of good quality and were trading at 52.56% when transferred on 23 April 1938. Since the bonds were of good quality and had market values below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was £1,000.00, which was equivalent to SF 21,370.00;<sup>8</sup>
- 5.5% *Rheinkraftwerk Albruck-Dogern Aktiengesellschaft, Waldshut am Rhein, 1930* bonds with a nominal value of SF 10,000.00. These bonds were in default and trading at 69% when transferred on 23 April 1938. Therefore, these bonds shall be valued at their market value of SF 6,900.00;<sup>9</sup>
- 5% *International Telephone & Telegraph Corporation Gold Debentures, per 1 February 1955* bonds with a nominal value of US \$3,000.00. These bonds were of good quality and were trading at 55.19% when sold on 20 April 1938. Since the bonds were of good quality and had market values below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was US \$3,000.00, which was equivalent to SF 13,110.00;<sup>10</sup>
- 1,500 *Canadian Pacific Railway Company 4%* non cumulative preferred stock which were trading at 41.5% on 6 August 1938, for a total market value of £622.50, which was equivalent to SF 13,302.83;<sup>11</sup>
- 50 *Chesapeake & Ohio Railway Company* common shares each with a nominal value of US \$25.00, each with a market value on 20 April 1938 of US \$26.625, for a total market value of US \$1,331.25, which was equivalent to SF 5,817.56;<sup>12</sup>
- 20 *Compania Hispano Americana de Electricidad Madrid Serie A/C* shares each with a value of SP 500.00 each with a market value on 23 April 1938 of SF 1,085.00, for a total market value of SF 21,700.00;<sup>13</sup>
- 40 *Electric Bond & Share Company US \$5.00* cumulative preference shares each with a market value on 20 April 1938 of US 41.00, for a total market value of US \$1,640.00, which was equivalent to SF 7,166.80;<sup>14</sup>
- 60 *Allminna Svenska Elektriska Aktiebolaget ASEA* shares each with a nominal value of SK 100.00, each with a market value on 4 May 1938 of SK 169.50, for a total market value of SK 10,170.00, which was equivalent to SF 11,196.15;<sup>15</sup>

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<sup>6</sup> The market value for this security was obtained from the *Neue Zürcher Zeitung*, 23 April 1938.

<sup>7</sup> The market value for this security was obtained from bank records previously in the CRT's possession.

<sup>8</sup> The market value for this security was obtained from *The Financial Times*, 23 April 1938.

<sup>9</sup> The market value for this security was obtained from the *Neue Zürcher Zeitung*, 23 April 1938.

<sup>10</sup> The market value for this security was obtained from *The New York Times*, 21 April 1938.

<sup>11</sup> The market value for this security was obtained from *The Financial Times*, 2 February 1938 and *Moody's Railroads 1951*, at 1384.

<sup>12</sup> The market value for this security was obtained from *The New York Times*, 21 April 1938.

<sup>13</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

<sup>14</sup> The market value for this security was obtained from *The New York Times*, 21 April 1938.

- *100 Bolsover Colliery Company Limited* common shares each with a market value on 6 August 1938 of £1.9625 for a total market value of £196.25, which was equivalent to SF 4,193.86;<sup>16</sup>
- *100 Distillers Company Limited* common shares each with a market value on 6 August 1938 of £4.9125, for a total market value of £491.25, which was equivalent to SF 10,498.01;<sup>17</sup>
- *390 Hawker Siddeley Aircraft Company Limited* common shares each with a nominal value of £5.00, each with a market value on 28 May 1938 of £1.35625, for a total market value of £528.94, which was equivalent to SF 11,303.39;<sup>18</sup>
- *130 Hawker Siddeley Aircraft Company Limited* common shares each with a nominal value of £5.00, each with a market value on 6 August 1938 of £1.39375, for a total market value of £181.19, which was equivalent to SF 3,871.98;<sup>19</sup>
- *200 Imperial Chemical Industries Ltd.* common shares each with a market value on 6 August 1938 of £1.5875, for a total market value of £317.50, which was equivalent to SF 6,784.98;<sup>20</sup>
- *50 Imperial Tobacco Company of Great Britain & Ireland Limited* common shares each with a market value on 6 August 1938 of £7.125, for a total market value of £356.25, which was equivalent to SF 7,613.06;<sup>21</sup>
- *150 International Nickel Company of Canada Limited* common shares each with a market value on 20 April 1938 of US \$46.5625, for a total market value of US \$6,984.38, which was equivalent to SF 30,521.72;<sup>22</sup>
- *100 Socony Vacuum Oil Company Inc.* common shares each with a nominal value of US \$15.00, each of which had a market value on 20 April 1938 of US \$13.4375, for a total market value of US \$1,343.75, which was equivalent to SF 5,872.19;<sup>23</sup>
- *200 F.W. Woolworth & Co. Ltd.* common shares each with a nominal value of £5.00, each with a market value on 6 August 1938 of £3.25, for a total market value of £650.00, which was equivalent to SF 13,890.50;<sup>24</sup> and
- *50 Aktiebolaget Bofors* shares each with a nominal value of SK 100.00, each with a market value on 23 April 1938 of SK 194.00, for a total market value of SK 9,700.00, which was equivalent to SF 10,678.73.<sup>25</sup>

Therefore, the Bank's records indicate that the total value of the custody account in June 1938 was SF 264,778.14. The Article 29 value of SF 13,000.00, which was used in the November 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF

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<sup>15</sup> The market value for this security was obtained from the *Aftonbladet*, 4 May 1938.

<sup>16</sup> The market value for this security was obtained from *The Financial Times*, 8 August 1938.

<sup>17</sup> The market value for this security was obtained from *The Financial Times*, 8 August 1938.

<sup>18</sup> The market value for this security was obtained from *The Financial Times*, 30 May 1938.

<sup>19</sup> The market value for this security was obtained from *The Financial Times*, 8 August 1938.

<sup>20</sup> The market value for this security was obtained from *The Financial Times*, 8 August 1938

<sup>21</sup> The market value for this security was obtained from *The Financial Times*, 8 August 1938

<sup>22</sup> The market value for this security was obtained from *The New York Times*, 21 April 1938.

<sup>23</sup> The market value for this security was obtained from *The New York Times*, 21 April 1938.

<sup>24</sup> The market value for this security was obtained from *The Financial Times*, 8 August 1938.

<sup>25</sup> The market value for this security was obtained from *Aftonbladet*, 25 April 1938.

251,778.14. 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 3,147,226.75.

### **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 her claim to determine whether there are additional Swiss bank accounts to which she 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  
30 June 2008