

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹
also representing [REDACTED 2]

in re Accounts of Marta Wolfson

Claim Numbers: 200447/JG²

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 105,284.25 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED] (the “Claimant”) to the published accounts of Marta Wolfson (the “Account Owner”) 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 30 September 2003, the Court approved an Award to the Claimant for a custody account and a demand deposit account owned by the Account Owner (the “September 2003 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 regarding 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 September 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 30 September 2003, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Marta Wolfson (the “September 2003 Award”), which is the subject of this Award Amendment.

² The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 200447 and 210096. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 20447.

The September 2003 Award

In the September 2003 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 accounts and that the Claimant and the party she 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 September 2003 Award, the Bank's records indicate the name and city of residence of the Account Owner. The records indicate that the Account Owner held one custody account, numbered 44208, which was closed on 23 June 1933, and one demand deposit account, which was closed on 10 July 1933.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account, numbered 44208. 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, it contained the following securities:

- *5.25% Acieries Reunies de Burbach Eich-Dudelange (Arbed) S.A. 1927 / 1942* bonds with a face value of 3,000.00 United States Dollars ("US\$"), which were transferred to account number 50040 on 23 June 1933; and
- *6% Rentenbons Compania Hispano-Americana de Electricidad S.A. Madrid 1920* bonds with a face value of 675.00 Argentinean Pesos Moneda Nacional ("\$MN"), which were transferred to account number 50040 on 24 June 1933.

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 September 2003 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 September 2003 Award

In the September 2003 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 September 2003, 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.

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

- *5.25% Acieries Reunies de Burbach Eich-Dudelange (Arbed) S.A. 1927 / 1942* bonds with a face value of US\$ 3,000.00. These bonds were of good quality and were trading at 4,791.67 Belgian Francs (“BF”) per US \$ 100.00 in April 1939, which was above their face value.³ Since these bonds were of good quality and had market values above their face value, the market value will be used to determine the value of this asset. The total market value of these bonds was BF 143,750.10, which was equivalent to SF 20,714.39;⁴ and
- *6% Rentenbons Compania Hispano-Americana de Electricidad S.A. Madrid 1920* bonds with a face value of MN\$ 675.00. These bonds were of good quality and were trading at 31.25% when transferred on 24 June 1933. Therefore, these bonds will be valued at their face value of MN\$ 675.00, which was equivalent to SF 708.35.⁵

³ The CRT was unable to determine the market value in 1933 for this security. However, in April 1939 a company offered to purchase the bonds at a price of 28,750.00 Belgian Francs (“BF”) per bond of 600 United States Dollars (“US\$”), which is equivalent to BF 4,791.67 per US\$ 100.00. This information was obtained from *Moody’s Industrials 1940, 1579*.

⁴ The CRT uses official exchange rates when making currency conversions.

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

The CRT notes that these securities were transferred to another account at the Bank. The CRT notes that the Bank's records do not indicate the owner of the account to which these securities were transferred. However, even if this account was owned by the Account Owner, there is no record of either the closure date of this account or the ultimate disposition of the securities contained within it. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

Therefore, the Bank's records indicate that the total value of the custody account was SF 21,422.74. The Article 29 value of SF 13,000.00, which was used in the September 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 8,422.74. 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 105,284.25.

Division of the Award Amendment

The Claimant is representing her mother, [REDACTED 2], in this proceeding. According to Article 23(2)(c) of the Rules, if a Claimant has not submitted an unbroken chain of wills relating back to the Account Owner, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with the principles of fairness and equity. In this case, considering the principles of fairness and equity in Article 23 of the Rules, the CRT determines that the Claimant and [REDACTED 2] are each entitled to one-half of the 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 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
11 August 2008