

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant Theodor Victor Brodek¹
also acting on behalf of [REDACTED]

in re Accounts of Theodor Brodek

Claim Number: 205849/RS

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 402,307.88 Swiss Francs

This Certified Award Amendment is based upon the claim of Theodor Victor Brodek (the “Claimant”) to the published accounts of Theodor Brodek (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 claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Procedural History

On 10 September 2004, the Court approved an Award to the Claimant and represented party [REDACTED] for a custody account and a demand deposit account owned by the Account Owner (the “September 2004 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 September 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

The September 2004 Award

In the September 2004 Award, the CRT determined that the Account Owner owned a custody account and a demand deposit account. The CRT further determined that the Claimant plausibly

¹ On 10 September 2004, the Court approved an award to Claimant Theodor Victor Brodek (the “Claimant”) and represented party [REDACTED] for the accounts of Theodor Brodek (the “September 2004 Award”), which is the subject of this Award Amendment.

identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he 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 his accounts and that the Claimant was entitled to one-half of the award amount, and that represented party [REDACTED] was 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 Records

As detailed in the September 2004 Award, the Bank's record indicates the name and city of residence of the Account Owner. The record indicates that the Account Owner held a demand deposit account, which was closed on 31 May 1933, and a custody account, numbered L40689, which was closed on 27 May 1933.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account L40689. 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 custody account numbered L40689, it contained the following securities:

- *6% French National Mail Steamship Lines External Sinking Fund Gold Bonds 1952* bonds with a face value of 5,000.00 United States Dollars ("US\$"), which were sold on 2 May 1933 (the actual repository for these bonds is listed as the *Bankers Trust Company of New York* in New York, New York, the United States);
- *5.25% Aciéries Réunies de Burbach-Eich-Dudelange (Arbed) S.A. 1927/1942* bonds with a face value of US\$ 1,800.00, which were sold on 9 May 1933; and
- *5.25% Aciéries Réunies de Burbach-Eich-Dudelange (Arbed) S.A. 1927/1942* bonds with a face value of US\$ 1,200.00, which were sold on 27 May 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 and represented party [REDACTED]. The CRT previously determined in the September 2004 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 Owner, and that it is plausible that neither the Account Owner nor his heirs received the proceeds of his account.

Value of the accounts in the September 2004 Award

In the September 2004 Award, the Account Owner held one demand deposit account and one custody 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 the September 2004 Award, 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 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 numbered L40689 with the following securities:

- *6% French National Mail Steamship Lines External Sinking Fund Gold Bonds 1952* bonds with a face value of US\$ 5,000.00. These bonds were of good quality, and were trading at 118.5% on 2 May 1933.² Therefore, these bonds shall be valued at their total market value of US\$ 5,925.00, which was equivalent to SF 24,470.25;³
- *5.25% Aciéries Réunies de Burbach-Eich-Dudelange (Arbed) S.A. 1927/1942* bonds with a face value of US\$ 1,800.00. These bonds were of good quality. No market price information for 1933 is available for these bonds, however in April 1939, the issuer offered to purchase these bonds at 28,750.00 Belgian Francs (“Bfr.”) per bond face value of US\$ 600.00. For present valuation purposes, the face value for these bonds was converted to Belgian Francs in accordance with the issuer’s buy-back offer quoted above. Therefore, these bonds shall be valued at their buy-back price of Bfr. 86,250.00, which was equivalent to SF 12,428.63;⁴ and
- *5.25% Aciéries Réunies de Burbach-Eich-Dudelange (Arbed) S.A. 1927/1942* bonds with a face value of US\$ 1,200.00. Again, using the buy-back price indicated above, these bonds shall be valued at their buy-back price of Bfr. 57,500.00, which was equivalent to SF 8,285.75.

² The market value for this security was obtained from *Moody’s Industrials 1935*, at 967.

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

⁴ The market value for this security was obtained from *Moody’s Industrials 1940*, at 1579.

Therefore, the Bank's records indicate that the total value of the custody account was SF 45,184.63. The Article 29 value of SF 13,000.00, which was used in the September 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 32,184.63. 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 402,307.88.

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 is representing his sister, [REDACTED]. Accordingly, the Claimant is entitled to one-half of the total award amendment amount, and his sister, represented party [REDACTED], is also entitled to one-half of the total award amendment 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 Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
28 October 2008