

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]
represented by Elisheva Ansbacher

in re Account of Dr. Hans Brück

Claim Number: 217354/MW

Award Amount: 137,500.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the account of Dr. Hans Brück (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards 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.

On 1 July 2002 the Court approved an Award to the Claimant for a custody account and a demand deposit account owned by the Account Owner (the “July 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the July 2002 Award. Based upon further evidence regarding the reliability of the declarations made in the Nazi decreed 1938 Census of Jewish-owned assets (the “1938 Census”), the CRT determines that the value of the custody account was 13,000.00 Swiss Francs (“SF”), and that given the foregoing, the July 2002 Award amount shall accordingly be increased by SF 137,500.00.

The CRT notes that in the July 2002 Award, the CRT 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. Based on the information contained in the Bank’s records and in the Austrian State Archive regarding the Account Owner’s 1938 Census declaration, the CRT determined that the Account Owner held one custody account that was valued at SF 2,000.00, and one demand deposit account that was valued at SF 2,140.00. The CRT further determined that SF 247.00 from the demand deposit account and SF 2,000.00 from the custody account were transferred from the Bank to the [REDACTED] on 7 April 1938 and 17 August 1938, respectively. Additionally, in the July 2002 Award, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his accounts. Finally, the CRT determined that the July 2002 Award amount was SF 49,680.00

The CRT's Analysis

Amount of the Award Amendment

In the July 2002 Award, the CRT determined that the value of the Account Owner's custody account was SF 2,000.00, which is the amount recorded in the Account Owner's 1938 Census declaration as the value of the custody account as of 16 July 1938 and the amount that was subsequently transferred to the Austrian bank.

However, the CRT determines that it is unable to rely on the balance amount declared in the 1938 Census or the Bank's records pertaining to the transfer of funds from the custody account, as it has no evidence regarding the circumstances of the Account Owner's 1938 Census declaration or the circumstances of the transfer. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all his assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in a custody account is less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the custody account shall be determined to be SF 13,000.00.

Accordingly, the CRT does not find that the value of the custody account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's custody account shall be determined to be SF 13,000.00. The amount of SF 2,000.00, which is the value for this account used in the July 2002 Award, is then subtracted from the Article 29 value, resulting in a difference of SF 11,000.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules. Accordingly, the amount of the July 2002 Award is increased by SF 137,500.00, which reflects the adjusted difference between the value of the Account Owner's custody account recorded in his 1938 Census declaration and the Bank's records and the value determined by Article 29 of the Rules.

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
21 October 2004