

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹
also acting on behalf of [REDACTED 2]
represented by Stephen M. Harnik

in re Accounts of Rosa Deutsch

Claim Number: 222517/CU

Original Award Amount: 541,000.00 Swiss Francs

Award Amendment Amount: 112,387.50 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the account of Fritz Deutsch.² This Award Amendment is to the published accounts of Rosa Deutsch (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 28 July 2004, the Court approved an Award to the Claimant for three custody accounts and two demand deposit accounts owned by the Account Owner (the “July 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 accounts. However, the Bank recently made available to the CRT additional information about these custody accounts, including detailed documentation on the portfolios held in each account. In this Award Amendment, the CRT adopts and amends its findings set out in the July 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 28 July 2004, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Rosa Deutsch (the “July 2004 Award”), which is the subject of this Award Amendment.

² The CRT awarded these accounts to the Claimant in a separate decision. See *In re Accounts of Fritz Deutsch* (approved on 12 May 2005).

The July 2004 Award

In the July 2004 Award, the CRT determined that the Account Owner owned three custody accounts, numbered 47312, 4127 and 47313, and two demand deposit accounts. 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 whom she represents were each 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 accounts, and therefore presumed that the value of each custody account was 13,000.00 Swiss Francs ("SF").

Information Available in the Bank's Record

As detailed in the July 2004 Award, the Bank's record indicates the name and the city of domicile of the Account Owner. According to this record, the Account Owner resided in Vienna, Austria. The Bank's record indicates that the Account Owner held two demand deposit accounts and three custody accounts. The Bank's record further indicates that custody account 47312 was closed on 28 August 1938; that custody account 4127 was closed on 1 September 1938; and that custody account 47313 and the two demand deposit accounts were closed on 10 September 1938.

As noted above, the Bank recently provided the CRT with additional documents regarding custody accounts 4127, 47312 and 47313. These documents contained custody account identification cards ("*Leitkarten*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within custody accounts 4127, 47312 and 47313. They further show that custody account 47312 was closed on 29 August 1938 (*laut Meldung*).

These documents indicate that at the time the Account Owner was deemed to have lost control over custody account 4127, it contained the following assets:

- 1 sealed sack containing American gold coins with a value of 2,940.00 United States Dollars ("US \$") with a declaration of value (*Wertdeklaration*) of SF 21,991.00, which was delivered (*ausgeliefert*) on 27 August 1938.

The documents of custody account 47312 indicate that the Account Owner held the following assets:

- 1 sealed sack containing American gold coins with a declaration of value (*Wertdeklaration*) of SF 10,920.00, which was delivered on 25 August 1938 (the actual repository of these coins is listed as *Westminster Bank Ltd.*, in London, the United Kingdom).

The documents pertaining to custody account 47313 indicate that the Account Owner held the following securities:

- *4% Belgische Prämien Anleihe von 1932* bonds with a face value of BF 5,250.00, which were transferred (*übertragen*) on 7 September 1938 to another account in the Bank, numbered 60898, the owner of which is not known;
- *3% Schweizerische Eisenbahnrente von 1890* bonds with a face value of SF 4,000.00, which on 7 September 1938 were transferred to another account in the Bank, numbered 60898, the owner of which is not known;
- *4.5% Southern Pacific Co. debentures per 1. Mai 1969* bonds with a face value of US \$1,000.00, which were transferred into this account from the Account Owner's account 47312 on 26 May 1937 and on 7 September 1938 were further transferred to another account in the Bank, numbered 60898. the owner of which is not known (the actual repository of these bonds is listed as the *Guaranty Trust Co. of New York*, New York, New York, the United States); and
- *5% garantierte Oesterreichische Konversionsanleihe 1934 Schweizer Tranche* bonds with a face value of SF 5,000.00, which on 7 September 1938 were transferred to another account in the Bank, numbered 60898, the owner of which is not known.

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 July 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 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 July 2004 Award

In the July 2004 Award, the Account Owner held three custody accounts and two demand deposit accounts. The value of all accounts other than custody account 4127 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 July 2004, 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 additional information from the Bank, the Account Owner held custody account 4127 with the following assets:

- 1 sealed sack containing American gold coins with a declared value of US \$2,940.00, which was delivered (*ausgeliefert*) on 27 August 1938. These will be valued at their declared value of SF 21,991.00.^{3, 4}

According to the additional information from the Bank, the Account Owner held custody account 47312 with the following assets:

- 1 sealed sack containing American gold coins with a declared value (*Wertdeklaration*) of SF 10,920.00, which was delivered on 25 August 1938. These will be valued at their declared value of SF 10,920.00.⁵

According to the additional information from the Bank, the Account Owner held custody account 47313 with the following securities:

- *4% Belgische Prämien Anleihe von 1932* bonds with a face value of BF 5,250.00. Since these bonds were of good quality when transferred on 7 September 1938, but no market quotation could be established for them, their face value will be used to determine the value of this asset. The total face value of these bonds was BF 5,250.00, which was equivalent to SF 775.43.⁶
- *3% Schweizerische Eisenbahnrente von 1890* bonds with a face value of SF 4,000.00. These bonds were of good quality and were trading at 99.00 percent when transferred on 7 September 1938. Since the bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value of these bonds was SF 4,000.00;⁷
- *4.5% Southern Pacific Co. debentures per 1. Mai 1969* bonds with a face value of US\$ 1,000.00. These bonds were of good quality and were trading at 46.81 percent when transferred on 7 September 1938. Since the bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value for these bonds was US \$1,000.00, which was equivalent to SF 4,370.00;⁸
- *5% garantierte Oesterreichische Konversionsanleihe 1934 Schweizer Tranche* bonds with a face value of SF 5,000.00. These bonds were in default and trading at 36.00 percent when transferred on 7 September 1938. Therefore, these bonds shall be valued at their market value of SF 1,800.00.⁹

The CRT notes that the Bank's records do not indicate who owned the account numbered 60898, into which the securities of custody account 47313 were transferred. However, even if the

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

⁴ The value of this asset was included in the Bank's documentation.

⁵ The value of this asset was included in the Bank's documentation.

⁶ The source of the quality of this security was *Moody's Manual of Investments, American and Foreign, Government Securities 1939*, Moody's Investors Service, New York, 1939, p. 1,704.

⁷ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

⁸ The market value for this security was obtained from the *New York Times*, 8 September 1938.

⁹ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

Account Owner owned that account, the records do not indicate when the account was closed, or the disposition of the securities contained within. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

In this case the Account Owner held three custody accounts which had been awarded in the July 2004 Award each of which had been awarded according to Article 29 of the Rules at its presumptive value of SF 13,000.00 . The newly obtained bank records for custody accounts 47312 and 47313 demonstrate that the value of these accounts was SF 10,920.00 and SF 10,945.43, respectively. According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. The CRT therefore does not amend these accounts.

The Bank's records indicate that the total value of custody account 4127 was SF 21,991.00. The Article 29 value of SF 13,000.00, which was used in the July 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 8,991.00. 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 112,387.50.

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 her sister, [REDACTED 2]. Accordingly, the Claimant and represented party [REDACTED 2] are each entitled to receive 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 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
25 September 2008