

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]^{1,2}

in re Accounts of Alfred Löffler

Claim Numbers: 600641/WT^{3,4}

Original Award Amount: 156,000.00 Swiss Francs

Award Amendment Amount: 272,953.75 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Alfred Löffler, Hugo Jacoby, Mina Jacoby, and *Gerstle & Loeffler*.⁵ This Certified Amendment is to the unpublished accounts of Alfred Löffler (the “Account Owner”), at the Zurich branch of the [REDACTED] (the “Bank”).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 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 available to the CRT did not contain information

¹ [REDACTED], née [REDACTED], originally filed this claim to the accounts of her parents, Hugo Jacoby and Mina Jacoby, née Löffler, and her uncle, Alfred Löffler. [REDACTED] passed away in August 2001, and her daughter, [REDACTED], née [REDACTED] (the “Claimant”), has assumed this claim.

² On 26 November 2002, the Court approved an award to the Claimant for the accounts of Alfred Löffler (the “November 2002 Award”), which is the subject of this Award Amendment. On 3 June 2003, the Court approved an award to the Claimant for an additional account of Alfred Löffler, which is not affected by this award amendment.

³ The Claimant submitted one additional claim to the accounts of Hanna Jacoby, which is registered under the Claim Number 400486. The CRT treated this claim in a separate decision. See *in re Account of Hanna Jacoby* (approved on 14 September 2007).

⁴ The Claimant submitted a claim, numbered B-00673, on 12 January 2001, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600641.

⁵ In a separate determination dated 18 January 2006, the CRT treated the claim to the accounts of Hugo Jacoby, Mina Jacoby and *Gerstle & Loeffler*.

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 November 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

The November 2002 Award

In the November 2002 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 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 his custody account and that the Claimant was entitled to the entire share 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 November 2002 Award, the Bank's record indicates the name and city of residence of the Account Owner, and indicates that he was the owner of the company *Gerstle & Löffler GmbH*. The record indicates that the Account Owner held one custody account, numbered 40372, which was closed on 27 August 1938, and one demand deposit account, also numbered 40372, which was closed on 20 June 1935.

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

- 4.5% Pfdbr. *Hypotheekbank Noord-Hollandsch Grondcrediet N.V. Alkmaar* bonds, with a face value of 1,000.00 Netherlands Florins ("Hfl."), which were cashed in ("*einkassiert*") on 17 September 1937;
- 4.5% Pfdbr. *Hypotheekbank Noord-Hollandsch Grondcrediet N.V. Alkmaar*, with a face value of Hfl. 2,000.00, which were sold on 13 December 1937;
- 4.5% Pfdbr. *Hypotheekbank Noord-Hollandsch Grondcrediet N.V. Alkmaar*, with a face value of Hfl. 3,000.00, which were cashed in on 7 March 1938;

- 4.5% *Schweizerische Bundesbahnen von 1928* bonds with a face value of SF 1,000.00, which were sold on 23 August 1938;
- 4.5% *Stadt Zürich von 1930* bonds with a face value of SF 10,000.00, which were sold on 23 August 1938;
- 5% *Canadian Pacific Ry.G. Collat. Trust Gold Bds. per 1954* with a face value of 2,000.00 United States Dollars (“US\$”), which were sold on 24 August 1938 (the actual repository for the bonds is listed as the *National City Bank of New York* in New York).

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 his heirs received the proceeds of his accounts.

Value of the accounts in the November 2002 Award

In the November 2002 Award, the Claimant was awarded one custody account held by the Account Owner. 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 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. 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:

- 4.5% *Pfdbr. Hypothekenbank Noord-Hollandsch Grondcrediet N.V. Alkmaar* bonds with a face value of Hfl. 1,000.00, which were cashed in on 17 September 1937. Therefore,

these bonds shall be valued at their face value of Hfl. 1,000.00, which was equivalent to SF 2,399.60;⁶

- 4.5% Pfdbr. *Hypotheekbank Noord-Hollandsch Grondcrediet N.V. Alkmaar* bonds with a face value of Hfl. 2,000.00, the market price of which was unknown when sold on 13 December 1937. However as part of these bond holdings were cashed in on a subsequent date, these bonds are deemed to have been of good quality and, therefore shall be valued at their face value of Hfl. 2,000.00, which was equivalent to SF 4,799.20;
- 4.5% Pfdbr. *Hypotheekbank Noord-Hollandsch Grondcrediet N.V. Alkmaar* bonds with a face value of Hfl. 3,000.00, which were cashed in on 7 March 1938. Therefore, these bonds shall be valued at their face value of Hfl. 3,000.00, which was equivalent to SF 7,215.00;
- 4.5% *Schweizerische Bundesbahnen von 1928* bonds with a face value of SF 1,000.00. These bonds were of good quality and were trading at 108.25% when sold on 23 August 1938, for a total market value of SF 1,082.50;⁷
- 4.5% *Stadt Zürich von 1930* bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 106.00% when sold on 23 August 1938, for a total market value of SF 10,600.00;⁸
- 5% *Canadian Pacific Ry.G. Collat. Trust Gold Bds. per 1954* with a face value of US\$ 2,000.00. These bonds were of good quality and were trading at 98.31% when sold on 24 August 1938. Since these bonds were of good quality and had market values below the face value, the face value will be used to determine the value of this asset. The total face value of these bonds was US \$2,000.00, which was equivalent to SF 8,740.00.⁹ and

The CRT notes that one of these securities was physically held in New York, New York, the United States. The CRT further notes that it was general practice for US-issued securities to remain physically in the United States, deposited in a US bank, and that trade in Europe in these issues was by way of so-called depositary receipts. Although the security certificates thus remained in the United States, the Bank in Switzerland was ultimately in control of these assets as ownership rested with the depositary receipts.

Therefore, the Bank's records indicate that the total value of the custody account was SF 34,836.30. 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 21,836.30. 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 272,953.75.

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

⁶ The CRT uses official exchange rates when making currency conversions.

⁷ The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1938.

⁸ The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1938.

⁹ The market value for this security was obtained from *The New York Times*, 25 August 1938.

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