

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to the Estate of Claimant [REDACTED 1],<sup>1</sup>

to Claimant [REDACTED 2]

and to Claimant [REDACTED 3]

## **in re Account of Heinrich Mueller**

Claim Numbers: 787015/RS; 787481/RS; 790676/RS<sup>2</sup>

Original Award Amount: 49,375.00 Swiss Francs

Award Amendment Amount: 0.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Heinrich Muller. This Award Amendment is to the published account of Heinrich Mueller (the “Account Owner”) at 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 relatives of the claimants other than the account owner, and the bank have been redacted.

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<sup>1</sup> On 30 November 2005, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) and Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) and two other unrelated claimants for the account of Heinrich Mueller (the “November 2005 Award”), which is the subject of this Award Amendment. The CRT notes that, in a separate decision, the account of Emma Mueller was awarded to Claimant [REDACTED 1], Claimant [Redacted 2], and Claimant [Redacted 3] (“Claimant [REDACTED 3]”) and four other claimants unrelated to these three claimants. See *In re Account of Emma Mueller* (approved 12 October 2007). The CRT has been informed that Claimant [REDACTED 1] passed away on 28 April 2003.

<sup>2</sup> The CRT notes that Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3] did not submit Claim Forms to the CRT. However, in 1999 they submitted Initial Questionnaires (“IQs”), numbered ENG-0660-012, ENG-0674-138, and ENG-0670-044, respectively, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQs were forwarded to the CRT and have been assigned claim numbers 787015, 787481, and 790676, respectively.

## **Procedural History**

On 30 November 2005, the Court approved an Award to Claimant [REDACTED], Claimant [REDACTED], Claimant [REDACTED 1], and Claimant [REDACTED 2] for the Account Owner's account (the "November 2005 Award"). The CRT notes that although Claimant [REDACTED 3] had filed a timely Initial Questionnaire ("IQ"), her IQ was not available for consideration in the November 2005 Award. In this Award Amendment, the CRT adopts and amends its findings to address the entitlement of Claimant [REDACTED 3] to that account.

## **The November 2005 Award**

In the November 2005 Award, the CRT determined that the Account Owner owned one account of unknown type. The CRT further determined that Claimant [REDACTED 1] and Claimant [Redacted 2], who are mother and son, and two other unrelated claimants had plausibly identified the Account Owner, that each Claimant or group of Claimants plausibly demonstrated that they are related to the Account Owner, and that they each made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Additionally, the CRT determined that the account of unknown type remained open and dormant. The CRT noted that the Bank's records indicated that the value of the account was below the average value for an account of unknown type as determined by the Independent Committee of Eminent Persons ("ICEP"), and therefore presumed that its value was 3,950.00 Swiss Francs ("SF"). The current value of this amount was calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

In the November 2005 Award, the CRT noted that, according to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In the November 2005 Award, the CRT determined that each Claimant or group of Claimants had established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] were jointly entitled to one-third of the Award amount, and the two other unrelated claimants were each entitled to one-third of the Award amount. With respect to their third, the CRT noted that, according to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] were each entitled to one-sixth of the total award amount.

Prior to receiving payment for the June 2006 Award, Claimant [REDACTED 1] and Claimant [REDACTED 2] were each required to sign an acknowledgment form which explicitly states that "In consideration of the payment, I undertake and agree that in the event that one or more other heirs of the account owner, known or unknown, entitled under Article 23 of the Rules Governing the Claims Resolution Process, as amended, (the "Rules") make(s) a claim to this account or

accounts, or otherwise seek(s) payment or compensation therewith, I shall share the payment with, or in the event that pursuant to the principles of distribution in Article 23 I am so required, I shall transfer the payment to, such other entitled heir(s), in the absence of another mutually agreed basis, irrespective as to whether the heir(s) was/were identified in the information provided to the CRT.”

### **Information Provided by Claimant [REDACTED 3]**

Claimant [REDACTED 3], who is Claimant [REDACTED 1]’s daughter and Claimant [Redacted 2]’s sister, submitted an IQ identifying the Account Owner as her father, Heinrich (Henry) Muller. Claimant [REDACTED 3] stated that her father was Jewish, and that he resided in Vienna, Austria, prior to the Second World War. Claimant [REDACTED 3] stated that her father fled Austria for France, and subsequently to the United States, and that he died in 1998.

In support of her claim, Claimant [REDACTED 3] submitted (1) her mother’s last will, indicating that [REDACTED 1] was married to Henry Muller, and that the two had three children, including [REDACTED 3] and [REDACTED 2]; (2) the death certificate of Henry Muller, indicating that he was born on 11 September 1909 in Austria, that he was married to [REDACTED 1], née [REDACTED], and that he died on 10 January 1998; and (3) the death certificate of [REDACTED 1], indicating that she passed away on 28 April 2003.

Claimant [REDACTED 3] indicated that she was born on 25 February 1951.

### **The CRT’s Analysis**

#### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), claims to the same or related accounts may be joined in one proceeding at the CRT’s discretion. In this case, the CRT determines it appropriate to join the five claims of the Claimants in one proceeding.

#### Identification of the Account Owner by Claimant [REDACTED 3]

Claimant [REDACTED 3]’s father’s name matches the published name of the Account Owner. Claimant [REDACTED 3] also identified the Account Owner’s city of residence, which matches unpublished information about the Account Owner contained in the Bank’s records. The CRT notes that Claimant [REDACTED 3] is Claimant [REDACTED 1]’s daughter and Claimant [REDACTED 2]’s sister.

#### Claimant [REDACTED 3]’s Relationship to the Account Owner

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was her

father. As noted above, Claimant [REDACTED 3] is Claimant [REDACTED 1]'s daughter and Claimant [REDACTED 2]'s sister.

### Basis for the Award Amendment

The CRT has determined that an Award Amendment is appropriate for Claimant [REDACTED 3]. First, Claimant [REDACTED 3]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 3] has plausibly demonstrated that she is the daughter of the Account Owner, and that relationship justifies her inclusion in the November 2005 Award. Third, the CRT determined in the November 2005 Award that the account remains open and dormant.

### Amended Division

In this case, according to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. Accordingly, with respect to the one-third of the total Award Amount allocated to this claimant group, Claimant [REDACTED 1], as the spouse of the Account Owner, is entitled to one-half of this portion, or one-sixth of the total Award Amount, and the Account Owner's children, Claimant [REDACTED 2] and Claimant [REDACTED 3], as the Account Owner's children, are entitled to share equally the other half of this portion, or one-twelfth of the Award Amount each. In accordance with the acknowledgment form, Claimant [REDACTED 2] is directed to share payment received in the November 2005 award with his sister, Claimant [REDACTED 3].

### **Certification of the Award Amendment**

The CRT certifies this Award Amendment for approval by the Court.

Claims Resolution Tribunal  
21 December 2009