

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1],

and to Claimant [REDACTED 2],

and to Claimant [REDACTED 3],¹
also acting on behalf of [REDACTED 4]
represented by Barbara Erdmann

in re Accounts of Herbert Wolff

Claim Numbers: 214048/RS; 218441/RS; 218178/RS²

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 109,737.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the accounts of Herbert Wolff; the claims of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of Lucie Wolff; and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Fritz Wolff.³ This Award Amendment is to the published accounts of Herbert Wolff (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 relatives of the claimants other than the account owner, and the bank have been redacted.

¹ On 13 July 2004 the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”), Claimant [REDACTED 2] (“Claimant [REDACTED 2]”) and Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) for the account of Herbert Wolff (the “July 2004 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED 1] submitted two additional claims, which are registered under the Claim Numbers 213219 and 213768. Claimant [REDACTED 3] submitted one additional claim, numbered 218179. The CRT awarded these accounts to the Claimants in two separate decisions. See *in re Account of Lucie Wolff* (approved on 13 July 2004); and *in re Account of Fritz Wolff* (approved on 23 June 2003).

³ As mentioned above, the CRT treated the claims to the accounts of Lucie Wolff and Fritz Wolff in two separate decisions. See *in re Account of Lucie Wolff* (approved on 13 July 2004); and *in re Account of Fritz Wolff* (approved on 23 June 2003).

Procedural History

On 13 July 2004, the Court approved an Award to the Claimants for a custody account and a demand deposit account 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 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 July 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

The July 2004 Award

In the July 2004 Award, the CRT determined that the Account Owner owned a custody account and a demand deposit account. The CRT further determined that the Claimants plausibly identified the Account Owner, that they plausibly demonstrated that they are related to the Account Owner, and that they 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 Claimant [REDACTED 2] and Claimant [REDACTED 3] were each entitled to a one-half 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 July 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 one demand deposit account, which was closed on 10 September 1933, and one custody account, which was closed on 30 August 1933.

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% Compagnie des Chemins de Fer de Paris à Lyon et à la Méditerranée Paris 1932* bonds with a face value of 7,500.00 Dutch Florins (“Hfl.”), which were sold on 9 June 1933;

- 4.5% *Compagnie des Chemins de Fer de Paris à Lyon et à la Méditerranée Paris 1932* bonds with a face value of Hfl. 2,000.00, which were sent to the Bank's Lugano branch on 30 August 1933; and
- 4.5% *Union d'Electricité S.A. Paris 1932* bonds with a face value of SF 2,000.00, which were sent to the Bank's Lugano branch on 30 August 1933.

These documents also indicate that the custody account was initially closed on 8 April 1933, then reopened on 21 April 1933, and permanently closed on 30 August 1933. There is no information in the Bank's records as to the disposition of these securities following their transfer to the Bank's Lugano branch. Nor is there any evidence of an account held in Lugano by the Account Owner. There is no evidence that the Account Owner or his heirs received the proceeds of these securities.

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 three claims of the Claimants in one proceeding.

Basis for the Award Amendment

The CRT has determined that an Award Amendment may be made in favor of Claimant [REDACTED 2] and Claimant [REDACTED 3]. The CRT previously determined in the July 2004 Award that the claims are admissible in accordance with Article 18 of the Rules, that the Claimants have plausibly demonstrated that they are 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 July 2004 Award

In the July 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 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 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.

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

- 4.5% *Compagnie des Chemins de Fer de Paris à Lyon et à la Méditerranée Paris 1932* bonds with a face value of Hfl. 7,500.00. These bonds were of good quality and were trading at 89% on 9 June 1933.⁴ Therefore, these bonds shall be valued at their total face value of Hfl. 7,500.00, which was equivalent to SF 15,615.00;⁵
- 4.5% *Compagnie des Chemins de Fer de Paris à Lyon et à la Méditerranée Paris 1932* bonds with a face value of Hfl. 2,000.00. These bonds were trading at 89% on 30 August 1933. Therefore, these bonds shall be valued at their total face value of Hfl. 2,000.00, which was equivalent to SF 4,164.00;⁶ and
- 4.5% *Union d'Electricité S.A. Paris 1932* bonds with a face value of SF 2,000.00. These bonds were of good quality, and were trading at 95.5% on 30 August 1933. Therefore, these bonds shall be valued at their total face value of SF 2,000.00.⁷

The CRT notes that certain securities in the account were transferred to another branch of the Bank. The CRT notes that the Bank's records do not indicate the owner of the account to which these securities were transferred. However, even if these accounts were owned by the Account Owner, there is no record of either the closure date of these accounts or the ultimate disposition of the securities contained within them. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

Therefore, the Bank's records indicate that the total value of the custody account was SF 21,779.00. 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 8,779.00. 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 109,737.50.

Division of the Award Amendment

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted the certificate of inheritance of Account Owner Fritz Wolff, dated 2 October 1952, which names the Claimants' father, Herbert Wolff, as Fritz Wolff's sole heir. Claimant [REDACTED 2] and Claimant [REDACTED 3] also submitted the will of Herbert Wolff, dated

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁵ The CRT uses official exchange rates when making currency conversions.

⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁷ Ibid.

1 June 1964, which bequeaths his entire estate to his second wife, [REDACTED]. Claimant [REDACTED 2] and Claimant [REDACTED 3] also submitted the will of [REDACTED], dated 1 July 1973, and an addendum to her will, dated 16 January 1978, which in turn bequeaths her entire estate to Claimant [REDACTED 2] and Claimant [REDACTED 3], in equal shares. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 3] are each entitled to one-half of the award amendment amount.

Scope of the Award Amendment

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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