

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]
represented by [REDACTED]

in re Account of *Alfred Schwarz*

Claim Number: 217429/SB

Award Amount: 43,057.50 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of [REDACTED]. This Award Amendment is to the account of the business *Alfred Schwarz* (the “Account Owner”) at 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 31 December 2003, the Court approved an Award to the Claimant for one account of unknown type owned by the Account Owner (the “December 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the December 2003 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 account was 3,950.00 Swiss Francs (“SF”), and that given the foregoing, the December 2003 Award amount shall accordingly be increased by SF 43,057.50.

The CRT notes that in the December 2003 Award, the CRT determined that the Claimant plausibly identified the Account Owner as a business owned by her aunt, [REDACTED], that the Claimant plausibly demonstrated that she is related to her aunt, and that she made a plausible showing that her aunt was a Victim of Nazi persecution. Based on the information contained in the Austrian State Archive regarding the Claimant’s aunt’s 1938 Census declaration, the CRT determined that the Account Owner held one account of unknown type and that the value of the account was SF 505.40 as of 20 April 1938. Additionally, in the December 2003 Award, the CRT determined that it is plausible that the Claimant’s aunt did not receive the proceeds of the account. Finally, the CRT determined that the December 2003 Award amount was SF 6,317.50.

The CRT's Analysis

Amount of the Award Amendment

In the December 2003 Award, the CRT determined that the value of the Account Owner's account was SF 505.40, which is the amount recorded in the Claimant's aunt's 1938 Census declaration as the value of the account as of 20 April 1938.

However, the CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Claimant's aunt's declaration. The CRT notes that, as evidenced in a number of cases, the Claimant's aunt may not have declared all her assets, or understated their value, in the belief that this might help her safeguard some of them. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in an account of unknown type is less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00.

Accordingly, the CRT does not find that the value of the account indicated in the Claimant's aunt'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 account shall be determined to be SF 3,950.00. The amount of SF 505.40, which is the value of the account used in the December 2003 Award, is subtracted from the Article 29 value, resulting in a difference of SF 3,44.60. The current value of this amount is calculated by multiplying the difference by a factor of 12.5, in accordance with Article 31(1) of the Rules. Accordingly, the amount of the December 2003 Award is increased by SF 43,057.50, which reflects the adjusted difference between the value of the Account Owner's account recorded in the 1938 Census declaration 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