

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED]<sup>1</sup>

## **in re Account of Josefine Bach**

Claim Numbers: 202313/DE

Original Award Amount: 149,500.00 Swiss Francs

Award Amendment Amount: 174,937.50 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Josefine Bach (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 12 November 2001, the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “November 2001 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 about 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 2001 Award based upon this additional information recently forwarded to the CRT by the Bank.

## **The November 2001 Award**

In the November 2001 Award, the CRT determined that the Account Owner owned one custody 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

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<sup>1</sup> On 12 November 2001, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the account of Josefine Bach (the “November 2001 Award”), which is the subject of this Award Amendment.

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 account and that the Claimant was entitled to the entire 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 2001 Award, the Bank's record indicates the name and addresses of the Account Owner. The Bank's records indicate that initially the Account Owner, Josefine Bach who resided in Munich, Germany, jointly held the account with [REDACTED], also of Munich. According to these records, Josefine Bach later gained full control of the Account. These records indicate that the Account Owner held one custody account which was closed on 21 April 1937. There is no evidence in the Bank's records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account numbered 39546. 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 custody account numbered 39546, it contained the following securities:

- *3.5% Schweizerische Bundesbahnen Anleihe der Jura-Simplon-Bahn von 1894* bonds with a face value of SF 1,500.00, which were sent (*zugesandt*) to the Dedibk. [*Deutsche Bank- und Diskonto-Gesellschaft*] Frankfurt on 3 December 1936;
- *5% Kraftwerk Ryburg-Schwörstadt A.G. Rheinfelden von 1929* bonds with a face value of SF 2,000.00, which were delivered (*ausgeliefert*) to Michelis & Co., Zurich, on 30 December 1933;
- *5% Kraftwerk Ryburg-Schwörstadt A.G. Rheinfelden von 1929* bonds with a face value of SF 4,000.00, which were sold on 15 April 1937;
- *5% Pfandbriefe Bodencreditbank in Basel von 1929 (datiert von 1912/1913)* bonds with a face value of SF 6,000.00, which were delivered to Michelis & Co., Zurich, on 30 December 1933;
- *5.5% Internationale Anleihe des Deutschen Reiches von 1930, Schweizerische Tranche* bonds with a face value of SF 10,000.00, which were transferred to Michelis & Co., Zurich on 29 April 1939; and
- *6.5% Deutsche Rentenbank-Kreditanstalt Berlin von 1930* bonds with a face value of SF 20,000.00, which were transferred to Michelis & Co., Zurich, on 27 December 1933.

## 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 2001 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 November 2001 Award

In the November 2001 Award, the Account Owner held one custody account.

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 2001, 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

The CRT notes that, according to the additional information furnished by the Bank, some securities were transferred/delivered to an unrelated bank in Switzerland. However, as there is no documentation either on who received these assets or their final disposition, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of these securities.

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.

According to the additional information from the Bank, the Account Owner's custody account, numbered 395467, held the following securities:

- 3.5% *Schweizerische Bundesbahnen Anleihe der Jura-Simplon-Bahn von 1894* bonds with a face value of SF 1,500.00. These bonds were of good quality and were trading at 101% when sent on 3 December 1936. Since these bonds were of good quality and had market values above their face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 1,515.00;<sup>2</sup>

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<sup>2</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1936.

- *5% Kraftwerk Ryburg-Schwörstadt A.G. Rheinfelden von 1929* bonds with a face value of SF 2,000.00. These bonds were of good quality and were trading at 91% when delivered on 30 December 1933. Since these bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was SF 2,000.00;<sup>3</sup>
- *5% Kraftwerk Ryburg-Schwörstadt A.G. Rheinfelden von 1929* bonds with a face value of SF 4,000.00. These bonds were of good quality and were trading at 107% when sold on 15 April 1937. Since these bonds were of good quality and had market values above their face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 4,280.00;<sup>4</sup>
- *5% Pfandbriefe Bodencreditbank in Basel von 1929 (datiert von 1912/1913)* bonds with a face value of SF 6,000.00. These bonds were of good quality and were trading at 50% when delivered on 30 December 1933. Since these bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was SF 6,000.00;<sup>5</sup>
- *5.5% Internationale Anleihe des Deutschen Reiches von 1930, Schweizerische Tranche* bonds with a face value of SF 10,000.00. These bonds were in default and trading at 24% when transferred on 29 April 1939. Therefore, these bonds shall be valued at their market value of SF 2,400.00;<sup>6</sup> and
- *6.5% Deutsche Rentenbank-Kreditanstalt Berlin von 1930* bonds with a face value of SF 20,000.00. These bonds were in default and trading at 54% when transferred to An Michelis & Co. Zurich on 27 December 1933. Therefore, these bonds shall be valued at their market value of SF 10,800.00.<sup>7</sup>

Therefore, the Bank's records indicate that the total value of the custody account before its closure in April 1937 was SF 26,995.00. The Article 29 value of SF 13,000.00, which was used in the November 2001 Award, is then subtracted from the actual historic value, resulting in a difference of SF 13,995.00. 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 174,937.50.

### **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).

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<sup>3</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

<sup>4</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>5</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

<sup>6</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1935.

<sup>7</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

## **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  
29 September 2008