

# 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 Accounts of Martin Cohn**

Claim Number: 601087/CU<sup>2,3</sup>

Original Award Amount: 366,198.00 Swiss Francs

Award Amendment Amount: 1,474,738.38 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Martin Cohn (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 relative of the claimants other than the account owner, and the bank have been redacted.

## **Procedural History**

On 3 June 2003, the Court approved an Award to the Claimant for two custody accounts, one safe deposit box, and three demand deposit accounts owned by the Account Owner (the “June 2003 Award”). At the time of that award, the bank records then available to the CRT only contained partial information regarding the value of one of the awarded custody accounts and

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<sup>1</sup> On 3 June 2003, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Martin Cohn (the “June 2003 Award”), which is the subject of this Award Amendment.

<sup>2</sup> The Claimant submitted a claim, numbered B-00657, on 3 February 1998, 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 601087.

<sup>3</sup> The Claimant also submitted an ATAG Ernst & Young claim form (“ATAG Form”) in 1998, numbered C-BSL-H-80-123-155-358, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 601087.

none regarding the other. However, on 11 April 2008, the Bank made available to the CRT additional information about one custody account, including detailed documentation on the portfolio held in that account. In this Award Amendment, the CRT adopts and amends its findings set out in the June 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

### **The June 2003 Award**

In the June 2003 Award, the CRT determined that the Account Owner owned two custody accounts, numbered L25647 and L38879, one safe deposit box, and three demand deposit accounts. 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 accounts and that the Claimant was entitled to the entire award amount.

Finally, the CRT determined that the Bank's records indicated that the value of custody account L25647 was 9,856.50 Swiss Francs ("SF").

### **Information Available in the Bank's Records**

As detailed in the June 2003 Award, the Bank's records indicate the name and address of the Account Owner. The Bank's records indicate that the Account Owner held six accounts: custody account L25647, which was opened on 15 June 1926 and closed on 10 September 1938; custody account L38879, which was closed on 1 October 1938; safe deposit box 904, which was opened on 27 February 1931 and closed on 28 April 1933; and three demand deposit accounts, which were closed on 20 October 1934, 20 December 1935 and 10 January 1939. The Bank's records further contain an internal memorandum, dated 9 December 1937, listing the securities held in custody account L25647, and showing that these securities had a total value of SF 9,856.50.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account L25647. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within custody account L25647.

These documents indicate that the account held the following securities at a time when the Account Owner was deemed to have lost control over the account:

- 4.5% *Stadt Zürich von 1930*, bonds with a nominal value of SF 1,000.00 which were transferred to account 15200 on 7 September 1938;
- 6% *I.G. Farbenindustrie A.G. Frankfurt a/M. von 1928 Conv. Obligationen (mit evt. Zusatzverzinsung)*, bonds with a nominal value of Reichsmark ("RM") 1,800.00, which were exempted on 27 July 1938;

- 8% *Goldpfandbriefe der Preussischen Zentralstadtschaft Berlin Reihe 23 fällig am 1.4.1935*, bonds with a nominal value of Goldmark (“GM”) 1,000.00, which were exempted on 21 May 1935;
- 100 shares of *Allgemeine Elektrizitäts-Gesellschaft, Berlin Aktien*, which were transferred to account 1211 on 7 September 1938;
- 40 shares of *Cie. des Mines de Houille de Courrierers S.A., Billy-Montigny Aktien a Ffrs. 100.00*, which were transferred to account 1211 on 7 September 1938;
- 20 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie A, B, C, à Ptas. 500.00*, which were sold on 7 July 1937;
- 15 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie A, B, C, à Ptas. 500.00*, which were transferred to account 1211 on 30 July 1937;
- 33 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie D à Ptas. 100.00*, which were transferred to account 1211 on 30 July 1937;
- 7 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie D à Ptas. 100.00*, which were sold in July 1937;
- 6 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie E à Ptas. 100.00*, which were sold on 7 July 1937;
- 34 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie E à Ptas. 100.00*, which were transferred to account 1211 on 30 July 1937;
- 2,000 shares of *Harpener Bergbau Akt. Ges. Dortmund Aktien*, which were exempted on 27 July 1938;
- 7,200 shares of *I.G. Farben A.G. Frankfurt a/M. Aktien*, which were exempted on 27 July 1938;
- 6,400 shares of *Ilseeder Hütte Hannover & Gross Peine Aktien*, which were exempted on 27 July 1938;
- 2 shares of *Internationale Gesellschaft für chemische Unternehmungen A.G. (I.G. Chemie), Basel Stamm Akt. A Fr. 500.00 – 50% einbez.*, which were transferred to account 1211 on 30 July 1937;
- 1,000 shares of *“Phoenix” A.G. für Bergbau & Hüttenbetrieb, Aktien “A”*, which were delivered on 9 Feb 1935;
- 20 shares of *Société des Mines de Lens S.A., Lille, Aktien A à FF 100.00*, which were transferred to account 1211 on 7 September 1938;
- 200 shares of *Mechanische Weberei zu Linden, Hannover-Linden*, which were delivered on 26 October 1933;
- 1 share of *Société Industrielle et Financière de Lens, Aktien II Ser. à FF 500.00*, which was transferred to account 1211 on 7 September 1938; and
- 4,000 shares of *Vereinigte Stahlwerke AG, Düsseldorf*, which were exempted on 27 July 1938.

## **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 June 2003 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 June 2003 Award

In the June 2003 Award, the Account Owner held two custody accounts, one safe deposit box, and three demand deposit accounts. The value of all accounts other than custody account L25647 remains unaffected.

In the June 2003 Award, the CRT based the value for custody account L25647 on an internal memorandum of the Bank, dated 9 December 1937, awarding a historical value of SF 9,856.00.

#### 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 nominal value of bonds not in default shall be awarded if the market value was below the nominal 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 nominal value on the date the account owner is deemed to have lost control over the account. Short-term paper, a type of security, is valued at its nominal value. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owner held custody account L25647 with the following securities:<sup>4</sup>

- 4.5% *Stadt Zürich von 1930*, bonds with a nominal value of SF 1,000.00. These bonds were of good quality and were trading at 106.50% when transferred to account 15200 on 7 September 1938. Therefore, the total market value of these bonds were SF 1,065.00;<sup>5</sup>
- 6% *I.G. Farbenindustrie A.G. Frankfurt a/M. von 1928 Conv. Obligationen (mit evt. Zusatzverzinsung)*, bonds with a nominal value of RM 1,800.00. These bonds were of good quality and were trading at 120.00% when exempted on 27 July 1938. Therefore, the total market value of these bonds were RM 2,160.00, which was equivalent to SF 3,790.37;<sup>6</sup>
- 8% *Goldpfandbriefe der Preussischen Zentralstadtschaft Berlin Reihe 23 fällig am 1.4.1935*, bonds with a nominal value of GM 1,000.00. These bonds were of good quality and were trading at 100.00% when exempted on 21 May 1935. Therefore, the total market value of these bonds were RM 1,000.00, which was equivalent to SF 1,237.00<sup>7</sup>;

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<sup>4</sup> The CRT uses official exchange rates when making currency conversions.

<sup>5</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

<sup>6</sup> The market value for this security was obtained from the *Frankfurter Zeitung*, 10 August 1938.

<sup>7</sup> The market value for this security was obtained from the *Frankfurter Zeitung*, 22 May 1935. The CRT notes that series 22 and 24 of these bonds were trading at 96.5% and 96.75%, respectively, on 21 May 1935.

- 100 shares of *Allgemeine Elektrizitäts-Gesellschaft, Berlin Aktien*, which were trading at 107% on 9 August 1938, for a total market value of RM 107.00, which was equivalent to SF 187.76;<sup>8</sup>
- 40 shares of *Cie. des Mines de Houille de Courrierers S.A., Billy-Montigny Aktien a Ffrs. 100.00*, which on 7 September 1938 had a market value of FF 219.25 each, for a total market value of FF 8,770.00, which was equivalent to SF 1,101.51;<sup>9</sup>
- 20 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie A, B, C, à Ptas. 500.00*, which on 29 December 1937 had a market value of SF 1,365.00 each, for a total market value of SF 27,300.00;<sup>10</sup>
- 15 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie A, B, C, à Ptas. 500.00*, which on 29 December 1937 had a market value of SF 1,365.00 each, for a total market value of SF 20,475.00;<sup>11</sup>
- 33 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie D à Ptas. 100.00*, which on 29 December 1937 had a market value of SF 268.00 each, for a total market value of SF 8,844.00;<sup>12</sup>
- 7 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie D à Ptas. 100.00*, which on 29 December 1937 had a market value of SF 268.00 each, for a total market value of SF 1,876.00;<sup>13</sup>
- 6 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie E à Ptas. 100.00*, which on 29 December 1937 had a market value of SF 271.00 each, for a total market value of SF 1,626.00;<sup>14</sup>
- 34 shares of *Compania Hispano-Americana de Electricidad Madrid Aktien Serie E à Ptas. 100.00*, which on 29 December 1937 had a market value of SF 271.00 each, for a total market value of SF 9,214.00;<sup>15</sup>
- 2,000 shares of *Harpener Bergbau Akt. Ges. Dortmund Aktien*, which were trading at 156.75% on 27 July 1938, for a total market value of RM 3,135.00, which was equivalent to SF 5,501.30;<sup>16</sup>
- 7,200 shares of *I.G. Farben A.G. Frankfurt a/M. Aktien*, which were trading at 151.50% on 27 July 1938, for a total market value of RM 10,908.00, which was equivalent to SF 19,141.36;<sup>17</sup>
- 6,400 shares of *Ilseeder Hütte Hannover & Gross Peine Aktien*, which were trading at 179.50% on 31 December 1936, for a total market value of RM 11,488.00, which was equivalent to SF 14,183.08;<sup>18</sup>

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<sup>8</sup> The market value for this security was obtained from the *Frankfurter Zeitung*, 9 August 1938.

<sup>9</sup> The market value for this security was obtained from *Le Temps*, 8 August 1938.

<sup>10</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>11</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>12</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>13</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>14</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>15</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>16</sup> The market value for this security was obtained from the *Frankfurter Zeitung*, 28 July 1938.

<sup>17</sup> The market value for this security was obtained from the *Frankfurter Zeitung*, 28 July 1938.

- 2 shares of *Internationale Gesellschaft für chemische Unternehmungen A.G. (I.G. Chemie), Basel Stamm Akt. A Fr. 500.00 – 50% einbez.*, which on 29 December 1937 had a market value of SF 595.00 each, for a total market value of SF 1,190.00;<sup>19</sup>
- 1,000 shares of “*Phoenix*” *A.G. für Bergbau & Hüttenbetrieb, Aktien “A”*, which on 9 February 1935 had a nominal value of RM 1,000.00. Since the bonds were of good quality and had an unknown market value, the nominal value will be used to determine the value of this asset, which was equivalent to SF 1,237.00;
- 20 shares of *Société des Mines de Lens S.A., Lille, Aktien A à FF 100.00*, which on 8 September 1938 had a market value of FF 961.75 each, for a total market value of FF 19,235.00, which was equivalent to SF 2,415.92;<sup>20</sup>
- 200 shares of *Mechanische Weberei zu Linden, Hannover-Linden*, which were delivered on 26 October 1933, which were trading at 50% on 31 December 1933, for a total market value of RM 100.00, which was equivalent to SF 122.60;<sup>21</sup>
- 1 share of *Société Industrielle et Financière de Lens, Aktien II Ser. A à FF 500.00*, which on 7 September 1938 had a nominal value of FF 500.00. Since the bonds were of good quality and had an unknown market value, the nominal value will be used to determine the value of this asset, which was equivalent to SF 62.80; and
- 1 share of *Vereinigte Stahlwerke AG, Düsseldorf*, a share with a nominal value of RM 4,000.00. These shares were trading at 103.50% on 27 July 1938, for a total market value of RM 4,140.00, which was equivalent to SF 7,264.87.<sup>22</sup>

Therefore, the Bank’s records indicate that the total value of custody account L25647 in September 1938 was SF 127,835.57. The value of SF 9,856.50, which was used in the June 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 117,979.07.<sup>23</sup> 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 1,474,738.38.

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<sup>18</sup> The market value for this security was obtained from the *Handbuch der deutschen Aktiengesellschaften*, 1937, p. 4141. The CRT notes, if the market value of the security on the exact date of disposition cannot be researched, it uses the market value for the closest available time period to determine the market value of the security.

<sup>19</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1937.

<sup>20</sup> The market value for this security was obtained from *Le Temps*, 8 September 1938.

<sup>21</sup> The market value for this security was obtained from the *Handbuch der deutschen Aktiengesellschaften*, 1937, p. 1778. The CRT notes, if the market value of the security on the exact date of disposition cannot be researched, it uses the market value for the closest available time period to determine the market value of the security.

<sup>22</sup> The market value for this security was obtained from the *Frankfurter Zeitung*, 28 July 1938.

<sup>23</sup> The CRT notes that, as detailed in the June 2003 Award, the Bank provided a value of certain of the securities listed here as SF 9,856.50. In contrast, using the Guidelines for the Valuation of Securities and official market rates, these same securities are valued here at SF 35,029.59, three and one-half times more than the value quoted by the Bank. The discrepancy is explained in part by the fact that the Bank may have undervalued the securities and did not apply the presumption regarding nominal versus market value as outlined in the Guidelines. For the sake of consistency, and to apply a valuation most favorable to the Claimant, the CRT is basing the award amount on the value of these securities as determined in this Award Amendment, and not as determined by the Bank and outlined in the June 2003 Award.

### **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).

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

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
18 December 2008