

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1],¹
also acting on behalf of [REDACTED 2]

to Claimant [REDACTED 3],
represented by [REDACTED]

and to Claimant [REDACTED 4]

in re Accounts of Auguste Goldschmid

Claim Numbers: 213273/DE; 215059/DE; 216703/DE; 220621/DE

Original Award Amount: 181,680.00 Swiss Francs

Award Amendment Amount: 583,115.88 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”), Claimant [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) and [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) (together “the Claimants”) to the published accounts of Auguste Goldschmid (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 23 June 2003, the Court approved an Award to the Claimants for one custody account and one demand deposit owned by the Account Owner (the “June 2003 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

¹ On 23 June 2003, the Court approved an award to [REDACTED 1] (“Claimant [REDACTED 1]”), Claimant [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”) and [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) (together “the Claimants”) for the accounts of Auguste Goldschmid (the “June 2003 Award”), which is the subject of this Award Amendment.

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 one demand deposit account and one custody 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 her accounts and that Claimant [REDACTED 3] and Claimant [REDACTED 4] are each entitled to one third of the total award amount and Claimant [REDACTED 1] and Represented Party, [REDACTED 2], who Claimant [REDACTED 1] is representing, are each entitled to one-sixth of the total award amount.

Finally, the CRT determined that the Bank's records 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 June 2003 Award, the Bank's records indicate the name and the domicile of the Account Owner. According to these records, the Account Owner resided in Vienna, Austria. These records indicate that the Account Owner held one demand deposit, numbered 292.012, and one custody account, numbered 271644. These records further indicate the demand deposit account was suspended for an unknown period of time, however the disposition of the custody account was not known.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account, numbered 58440.² 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 numbered 58440, it contained the following securities:

- 1,455 "*Nova*" *Verkehrs und Industrie A. -G Aktien à Pengo 25.*-- shares, each with a face value of 25.00 Hungarian Pengö ("Pen."), which were transferred on 28 December 1938

² The CRT notes that this custody account appeared to be numbered 271644, based on the original bank documents available to the CRT at the time of the June 2003 Award, which consisted of copies of ledger sheets containing account information for multiple, unrelated account owners. Based on the additional material recently received from the Bank, which consists of a custody account identification card and custody account portfolio cards pertaining specifically to the individual Account Owners, the CRT now concludes that the correct historical account number for this custody account is 58440.

- to account 27130 with a handwritten notation *Länderbank [illegible] AG, Wien* (the actual repository of these shares is listed as the *Pester-Ungarische Commercial Bank, Budapest*);
- 14 “*Ofa*” *Holzindustrie A.G. Genf Stamm-Aktien a Fr. 50.--* shares, each with a face value of SF 50.00, which were sold on 3 September 1938 (the actual repository of these shares is listed as *Oesterreichische Creditanstalt-Wiener Bankverein, Vienna*); and
 - *N.V. Gemeenschappelijk Bezit van Aandeelen Philips Gloeilampenfabrieken Eindhoven Stamm-Aktien* shares, with a total face value of 4,500.00 Dutch Guilders (“Hfl.”), which were sold on 24 August 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 Claimants. The CRT previously determined in the June 2003 Award that the claims are admissible in accordance with Article 18 of the Rules Governing the Claims Resolution Process, as amended (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 her heirs received the proceeds of her accounts.

Value of the accounts in the June 2003 Award

In the June 2003 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 June 2003, 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, stocks are valued at market value.

According to the additional information from the Bank, the Account Owner’s custody account numbered 58440, held the following securities:

- 1,455 “*Nova*” *Verkehrs und Industrie A. –G. Aktien a Pengo 25.--* each with a face value of Pen. 25.00 and each with a market value of Pen. 17.45 when transferred on 28 December 1938 to an account at the Bank numbered 27130, the owner of which is unknown, though there was a handwritten notation below the entry indicating the

Länderbank AG, Vienna.³ The total market value of these shares was Pen. 25,389.75, which was equivalent to SF 32,732.47;⁴

- 14 “*Ofa*” *Holzindustrie A.G. Genf Stamm-Aktien a Fr. 50.--* shares, each with a face value of SF 50.00 and each with a market value of SF 5.50 when sold on 3 September 1938. The total market value for these shares was SF 77.00;⁵ and
- *N.V. Gemeenschappelijk Bezit van Aandeelen Philips Gloeilampenfabrieken Eindhoven Stamm-Aktien* shares with a total face value of Hfl. 4,500.00, which were trading at 248% when sold on 24 August 1938. The total market value of these shares was Hfl. 11,160.00, which was equivalent to SF 26,839.80;⁶

The CRT notes that the Bank’s records do not clearly indicate who owned the account into which one of the securities is shown to have been transferred, and that this account number appears as the transfer destination for other, unrelated accounts. Even if this account was held by the respective owners of the accounts from which the securities originated, the records do not indicate when the account was closed, or the disposition of the securities contained within it. Accordingly, the CRT concludes that the Account Owner did not receive this security or its proceeds.

Therefore, the Bank’s records indicate that the total value of the custody account in December 1938 was SF 59,649.27. The Article 29 value of SF 13,000.00, which was used in the June 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 46,649.27. 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 583,115.88.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner’s spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Further, according to Article 23(1)(f) of the Rules, if a child of the Account Owner is deceased and that child’s spouse but none of that child’s descendants have submitted a claim, the child’s spouse shall be considered a child of the Account Owner for the purposes of this Article. In this case, Claimant [REDACTED 3] is the child of the Account Owner, and Claimant [REDACTED 4] was married to a child of the Account Owner, who is now deceased. Claimant [REDACTED 1], who is also representing her sister, [REDACTED 2], are both the daughters of another child of the Account Owner. Accordingly, Claimant [REDACTED 3] and Claimant [REDACTED 4] are each entitled to one-third of the total award amendment amount, and Claimant [REDACTED 1] and represented party [REDACTED 2] are each entitled to one-sixth of the total award amendment amount.

³ The market value for this security was obtained from *Compass Ungarn 1940*, p. 908.

⁴ The CRT uses official exchange rates when making currency conversions.

⁵ The market value for this security was obtained from the *Schweizerische Handelszeitung*, No. 35, 1938.

⁶ The market value for this security was obtained from *Vos’ Wekelijksche Uitlotings-Courant*, 25 August 1938.

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 Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
28 October 2008