

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

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

to Claimant [REDACTED 2]

and to Claimant [REDACTED 3]

## **in re Accounts of Otto Herrmann**

Claim Numbers: 700651/WT;<sup>2</sup> 732593/WT;<sup>3</sup> 700661/WT<sup>4</sup>

Original Award Amount: 220,250.00 Swiss Francs

Award Amendment Amount: 250,000.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”) to the account of Max Herrmann and Otto Herrmann,<sup>5</sup> the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of Otto Schlosser, and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Otto Schlosser.<sup>6</sup> This Award Amendment is to the published accounts of Otto Herrmann (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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<sup>1</sup> On 14 December 2005, the Court approved an award to Claimant [REDACTED 1] (“Claimant [REDACTED 1]”), to Claimant [REDACTED 2] (“Claimant [REDACTED 2]”), and to Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) for the accounts of Otto Herrmann (the “December 2005 Award”), which is the subject of this Award Amendment.

<sup>2</sup> Claimant [REDACTED 1] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered CZE-0020-071, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 700651.

<sup>3</sup> Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered HUN-0130-193, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 732593.

<sup>4</sup> Claimant [REDACTED 3] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered CZE-0020-085, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 700661.

<sup>5</sup> The CRT will treat the claim to the account of Max Herrmann in a separate determination.

<sup>6</sup> The CRT will treat the claims to the account of Otto Schlosser in a separate determination.

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 14 December 2005, the Court approved an Award to the Claimants for a custody account, a demand deposit account, and two safe deposit boxes owned by the Account Owner (the “December 2005 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 December 2005 Award based upon this additional information recently forwarded to the CRT by the Bank.

## **The December 2005 Award**

In the December 2005 Award, the CRT determined that the Account Owner owned a custody account, a demand deposit account and two safe deposit boxes. 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 the Claimants, who are siblings, were each entitled to one-third 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 December 2005 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 custody account, numbered L58264, which was closed on 17 April 1939, one demand deposit account, which was closed on 20 April 1939, and two safe deposit boxes, which were closed on unknown dates.

As noted above, the Bank recently provided the CRT with additional documents regarding this 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 custody account, numbered L58264, it contained the following security:

- 3.5% *Schweizerische Kreditanstalt, Zürich fällig am 8. April 1942* medium-term paper with a face value of SF 33,000.00, which was sold on 24 April 1939.

## **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 December 2005 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 his heirs received the proceeds of his accounts.

### Value of the Accounts in the December 2005 Award

In the December 2005 Award, the Account Owner held one custody account, one demand deposit account, and two safe deposit boxes. The value of all accounts other than the custody account held by the Account Owner 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 L58264 in December 2005, 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. 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. Medium-term paper is valued at its face value.

According to the additional information from the Bank, the Account Owner held a custody account, numbered L58264, with the following security:

- *3.5% Schweizerische Kreditanstalt, Zürich fällig am 8. April 1942* medium-term paper with a face value of SF 33,000.00. This medium-term paper shall be valued at its total face value of SF 33,000.00.

Therefore, the Bank's records indicate that the total value of the custody account numbered L58264 before its closure in April 1939 was SF 33,000.00. The Article 29 value of SF 13,000.00, which was used in the December 2005 Award, is then subtracted from the actual historic value, resulting in a difference of SF 20,000.00. 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 250,000.00.

#### Division of the Award Amount

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 1], Claimant [REDACTED 2] and Claimant [REDACTED 3], who are siblings, are each entitled to one-third of the total 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 Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
29 September 2008