

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Account of Leopold Herz

Claim Number: 710427/CU²

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 70,625.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Leopold Herz (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 9 March 2005, the Court approved an Award to the Claimant for one custody account and one demand deposit account owned by the Account Owner (the “March 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 March 2005 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 9 March 2005, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the account of Leopold Herz (the “March 2005 Award”), which is the subject of this Award Amendment.

² Claimant [REDACTED] (“the Claimant”) did not submit a Claim Form to the CRT. However, in 2000 she submitted an Initial Questionnaire (“IQ”), numbered GER-0062-154, 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 710427.

The March 2005 Award

In the March 2005 Award, the CRT determined that the Account Owner owned one custody account and one demand deposit 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 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 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 March 2005 Award, the Bank's record indicates the name and the city of domicile of the Account Owner. According to this record the Account Owner resided in Vienna, Austria. The Bank's record indicates that the Account Owner held one custody account, numbered 57816, and one demand deposit account. The Bank's record indicates that custody account 57816 was closed on 10 December 1938 and the demand deposit account was closed on 20 March 1940.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account 57816. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within custody account 57816.

These documents indicate that at the time the Account Owner was deemed to have lost control over the account, it contained the following securities:

- *4% Argentinische äussere Anleihe von 1933* bonds with a face value of SF 10,000.00, which were sold on 8 December 1938; and
- 10 shares of *Aare-Tessin Aktiengesellschaft für Elektrizität, Olten Aktien à Fr. 500.00* shares with a face value of SF 500.00 each, which were sold on 8 December 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 March 2005 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 March 2005 Award

In the March 2005 Award, the Account Owner held one custody account and one demand deposit 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 March 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. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owner held custody account 57816 with the following securities:

- 4% *Argentinische äussere Anleihe von 1933* bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 100.00% when sold on 8 December 1938. Therefore, these bonds shall be valued at the market value of SF 10,000.00;³ and
- 10 shares of *Aare-Tessin Aktiengesellschaft für Elektrizität, Olten Aktien à Fr. 500.00*, which on 23 December 1938 had a market value of SF 865.00 each, for a total market value of SF 8,650.00.⁴

Therefore, the Bank’s records indicate that the total value of custody account 57816 was SF 18,650.00. The Article 29 value of SF 13,000.00, which was used in the March 2005 Award, is then subtracted from the actual historic value, resulting in a difference of SF 5,650.00. 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 70,625.00.

³ The market value for this security was obtained from a bank statement from the Bank, which was provided to the CRT by another, unrelated claimant.

⁴ The market value for this security was obtained from the Zürcher Kursblatt, 30 December 1938.

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
11 August 2008