

# 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 Josef Mosbacher**

Claim Number: 216033/CU<sup>2</sup>

Original Award Amount: 149,500.00 Swiss Francs

Award Amendment Amount: 449,250.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Josef Mosbacher (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 27 January 2002, the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “January 2002 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 January 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

## **The January 2002 Award**

In the January 2002 Award, the CRT determined that the Account Owner owned a custody account. The CRT further determined that the Claimant plausibly identified the Account Owner,

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<sup>1</sup> On 27 January 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the account of Josef Mosbacher (the “January 2002 Award”), which is the subject of this Award Amendment.

<sup>2</sup> The CRT awarded an additional account of Josef Mosbacher to the Claimant in a separate decision. See *in re Account of Josef Mosbacher* (approved on 3 June 2003).

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 account and that the Claimant was entitled to the entire 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 January 2002 Award, the Bank's records indicate the name and the city of domicile of the Account Owner. According to the Bank's records, the Account Owner was Josef Mosbacher, who lived in Kronach, Germany. These records indicate that the Account Owner held a demand deposit account which was closed on 31 August 1933 and a custody account which was closed on 17 October 1938.

As noted above, the Bank recently provided the CRT with additional documents regarding the 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. According to these records the Account Owner held a custody account, numbered 37852.

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

- 3.5% *Schweizerische Bundesbahnen von 1932* bonds with a nominal value of SF 27,000.00, which were sold on 11 October 1938; and
- 4.5% *Eidgenössische Staatsanleihe von 1926* bonds with a nominal value of SF 20,000.00, which were sold on 11 October 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 January 2002 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 account.

### Value of the accounts in the January 2002 Award

In the January 2002 Award, the Account Owner held one custody account and one demand deposit account. The value of the demand deposit account remains unaffected.<sup>3</sup>

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody account in the January 2002 Award, 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 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.

According to the additional information from the Bank, the Account Owner held the following securities in custody account 37852:

- 3.5% *Schweizerische Bundesbahnen von 1932* bonds with a nominal value of SF 27,000.00. These bonds were of good quality and were trading at 102.00% when sold in 1938. The total market value of these bonds was SF 27,540.00;<sup>4</sup> and
- 4.5% *Eidgenössische Staatsanleihe von 1926* bonds with a nominal value of SF 20,000.00. These bonds were of good quality and were trading at 107.00% when sold in 1938. The total market value of these bonds was SF 21,400.00.<sup>5</sup>

Therefore, the Bank’s records indicate that the total value of the custody account in October 1938 was SF 48,940.00. The Article 29 value of SF 13,000.00, which was used in the January 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 35,940.00. 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 449,250.00.

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<sup>3</sup> The CRT notes that the demand deposit account was awarded to the Claimant in a separate decision on 3 June 2003. See footnote 2.

<sup>4</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

<sup>5</sup> 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