

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2] and [REDACTED 3]

and to Claimant [REDACTED 4]  
also acting on behalf of [REDACTED 5]

## **in re Account of Walther Muller**

Claim Numbers: 204578/MC; 213764/MC; 215383/MC<sup>1</sup>

Amendment Amount: 1,188.13 Swiss Francs

This Certified Amendment is to the award *In re Account of Walther Muller*, which was originally approved by the Court on 6 March 2003, and its subsequent amendment, which was approved by the Court on 12 May 2006.

This Amendment is one of several Amendments submitted to the Court at the same time in one set. Each Amendment in this set is necessitated by one or more of five general reasons, which are described below and in the Court Order approving this set. The specific reason for the Amendment in this case is set forth below, following the description of the general reasons.

### **General Reasons for Amendments**

#### **1. Adjustment of Low Value Accounts to Presumptive Value**

During the course of the Claims Resolution Process, the Claims Resolution Tribunal (“CRT”) has developed certain guiding practices, which have been incorporated into decisions later approved by the Court. Thus, in an Order dated 28 May 2002, the Court approved an Order amending the Rules Governing the Claims Resolution Process (the “Rules”) to address, among other issues, the use of the average 1945 account values for accounts with low values and the use of other plausible evidence for determining account values. That Order amended the Rules to extend average value presumptions, previously used only when the value of an account was unknown, to accounts whose 1945 values were less than the average 1945 value of an account of similar type, in the absence of plausible evidence to the contrary.

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<sup>1</sup> During the course of the claims resolution process, the CRT may have identified additional claims filed by the same claimants or co-claimants that contain the name of the claimed account owner addressed in the original decision upon which this adjustment is based. If so, these claims have since been joined pursuant to Article 37 of the Rules Governing the Claims Resolution Process and are accordingly listed above.

2. Adjustment of Account Values Reported in the 1938 Census to Presumptive Value

Additionally, on 21 October 2004, the Court approved an Order amending the CRT's practice of basing account valuations on the value of assets declared pursuant to a decree issued by the Nazi Regime on 26 April 1938, requiring all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). Pursuant to this Order, in cases in which the account owner's 1938 Census return shows an account value below the presumptive value for the type of account at issue, the CRT now bases the account valuation, in the absence of plausible evidence to the contrary, on the presumptive value for the type of account at issue.

3. Adjustment of Account Values for Which Interest Accruals Had Been Deducted

The Court's Order of 21 October 2004 also amended the practice of calculating the historic (1945) value of certain accounts in cases where bank records provide a post-1945 value. For reasons detailed there, that Order approved suspending the deduction of interest accruals when determining account valuation, absent bank documentation showing interest actually having been credited to the account over the period in question.

4. Reclassification of "Depositenkonten" (Time Deposit Accounts)

Following her appointment as Special Master, Dr. Helen B. Junz noted that the CRT treated accounts designated in the bank records as "time deposits" ("*Depositenkonten*") as accounts of "other" type that, according to Article 29 of the Rules, had a presumptive value of SF 2,200.00. Special Master Junz advised the CRT that the more appropriate classification for this type of account was as an account of unknown type, which has a presumptive value of SF 3,950.00. Since then, the CRT has followed Special Master Junz's determination in awards that were subsequently approved by the Court.

5. Adjustment of Bond Values in Accordance with the Guidelines for the Valuation of Securities

In 2005, Special Master Junz circulated to the CRT Guidelines for the Valuation of Securities. According to these Guidelines, 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, or if the bonds were in default. Following their circulation to the CRT, the Guidelines were incorporated into decisions subsequently approved by the Court.

6. Incorporation of Account Information Provided by the Banks to the CRT via “Voluntary Assistance”

Article 6 of the Rules allows the CRT to seek the voluntary assistance of banks that may have information in their files on an account (“Voluntary Assistance”). Pursuant to Article 6, Defendant Banks have provided the CRT with additional information about previously awarded accounts that necessitate an amendment of the original award.

**Specific Reasons for this Amendment and Amendment Amount**

In this case, the Amendment amount represents the difference in value of one savings account originally awarded at the presumptive value of SF 830.00, which is now awarded at a known value of SF 925.05 due to a recalculation of accrued interest deducted from the value of the account prior to the original award.

The table below summarizes the issue necessitating the Amendment in this case, as well as the total current value of the Amendment. In each case, the values awarded were calculated by subtracting the historical 1945 value previously awarded from the newly adjusted 1945 value. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total Award Amendment amount of SF 1,188.13.

Low Value Account Issue	1938 Census Issue	Incorporation of Bank Information Obtained via Voluntary Assistance	Interest Deduction Issue	Reclassification of Time Deposit Accounts	Bond Valuation Issue	Total Award Amendment Amount (SF)
			1,188.13			1,188.13

**Division of Amendment Amount**

The Certified Amendment is to be distributed among the entitled parties in the same proportion as the original award and subsequent amendment. As detailed in the original award and in the 12 May 2006 amendment, according to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and represented party [REDACTED 3] are entitled to share one-half of the award amendment amount, and Claimant [REDACTED 4] and represented party [REDACTED 5] are entitled to share one-half of the award amendment amount.

With respect to Claimant [REDACTED 4]'s share of the award amendment amount, 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. In this case, Claimant [REDACTED 4] is representing [REDACTED 5], and they are the Account Owner's daughters. Accordingly, Claimant [REDACTED 4] and represented party [REDACTED 5] are each entitled to one-fourth of the total award amendment amount.

With respect to Claimant [REDACTED 1]'s share of the award amount, in the 6 March 2003 Award, the CRT determined that Claimant [REDACTED 1] and represented party [REDACTED 3], as the Account Owner's great-grandchildren, have a better entitlement to the account than represented party [REDACTED 2]. Accordingly, Claimant [REDACTED 1] and represented party [REDACTED 3] are each entitled to one-fourth of the total award amendment amount.

The CRT notes that the adjustment amount may be reduced by any amount determined (for example, in a decision upon appeal or in an amendment) to have been overpaid to any of the Claimants, as detailed in the cover letter to this Award Adjustment decision.

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

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

Claims Resolution Tribunal  
16 April 2010