

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant Maria Altmann¹
also acting on behalf of the Estate of Antoinette Bentley,
Peter Bentley, Elizabeth Jarvis and Marietta Hurst
represented by E. Randol Schoenberg

in re Accounts of Otto Pick and Käthe Pick

Claim Number: 215866/WT

Original Award Amount: 351,750.00 Swiss Francs

Award Amendment Amount: 591,770.25 Swiss Francs

This Certified Award Amendment is based upon the claim of Maria Altmann, née Bloch-Bauer (the “Claimant”) to the account of Ferdinand Bloch-Bauer.² This Award Amendment is to the published accounts of Otto Pick (“Account Owner Otto Pick”) and Käthe Pick (“Account Owner Käthe Pick”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Procedural History

On 18 November 2004, the Court approved an Award to the Claimant and represented parties Antoinette Bentley, Peter Bentley, Elizabeth Jarvis and Marietta Hurst, for two custody accounts and one demand deposit account owned by the Account Owners (the “November 2004 Award”). At the time of that award, the bank records available to the CRT did not contain information

¹ On 18 November 2004, the Court approved an award to Antoinette Bentley, Elizabeth Jarvis and Marietta Hurst, who are represented by the Claimant, for the accounts of Otto Pick and Käthe Pick (the “November 2004 Award”), which is the subject of this Award Amendment.

² In her Claim Form, the Claimant also identified other family members who held Swiss bank accounts. In separate decisions the CRT has awarded accounts belonging to Luise Gutmann, Leopold and Antoinette Bloch-Bauer, Otto Gutmann, and the *Österreichische Zuckerindustrie AG* to their heirs, who were represented by the Claimant. See *In re Accounts of Luise Gutmann* (approved on 18 August 2004); *In re Accounts of Leopold and Antoinette Bloch-Bauer* (approved on 13 October 2004); *In re Accounts of Otto Gutmann* (approved on 18 November 2004); and *In re Account of Österreichische Zuckerindustrie AG* (approved 13 April 2005). The CRT will treat the Claimant’s claim to the account of Ferdinand Bloch-Bauer in a separate decision.

regarding the value of the awarded custody accounts. However, the Bank recently made available to the CRT additional information about these accounts, including detailed documentation on the portfolios held in the accounts. In this Award Amendment, the CRT adopts and amends its findings set out in the November 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

The November 2004 Award

In the November 2004 Award, the CRT determined that the Account Owners owned two custody accounts and one demand deposit account. The CRT further determined that the Claimant plausibly identified the Account Owners, that she plausibly demonstrated that she is related to the Account Owners, and that she made a plausible showing that the Account Owners were Victims of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their accounts. The CRT also determined that represented parties Elizabeth Jarvis and Marietta Hurst, who are the paternal grandchildren of the Account Owners, were each entitled to one-fourth of the total award amount, and Antoinette Bentley, who is the daughter of the Account Owners, was entitled to one-half of the total award amount. The CRT determined that the Claimant, who is the sister of the Account Owners' son-in-law, and Peter Bentley, who is the son of Antoinette Bentley, were not entitled to a share of the award amount.

Finally, the CRT determined that the Bank's records did not indicate the value of the accounts, and therefore presumed that the value of each custody account was 13,000.00 Swiss Francs ("SF") and that the value of the demand deposit account was SF 2,140.00.

Information Available in the Bank's Records

As detailed in the November 2004 Award, the Bank's records indicate the names and cities of residence of the Account Owners, the professional title of Account Owner Otto Pick, and the marital status of Account Owner Käthe Pick.

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

Upon careful review of these new documents, the CRT has ascertained that the Bank's records indicate that one of the two custody accounts awarded in the November 2004 Award was closed on 30 June 1933, prior to the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"). Consequently, the CRT concludes that the Account Owners were able to access this account and that they closed this account and received the proceeds themselves.

The review of these new documents further indicates the existence of an additional demand deposit account jointly held by the Account Owners, which the CRT will treat in a separate

decision. Thus, these records indicate that the Account Owners held one custody account, numbered L52426, which was closed on 14 June 1939, and two demand deposit accounts, which were closed on 10 April 1939.

These documents indicate that at the time the Account Owners were deemed to have lost control of the custody account, numbered L52426, it contained the following securities:

- *3% German Funding Bonds per 1. Jan. 1946* bonds with a face value of 8,100.00 United States Dollars (“US \$”), which were transferred to another account at the Bank, numbered 61957, the owner of which is unknown on 12 June 1939 (the actual repository for these bonds is listed as *Brown Brothers, Harriman & Co.* in New York);
- *6% State of San Paulo, est. Sterling loan per 1. Juli 1968* bonds with a face value of 400.00 Pound Sterling (“£”), which on 12 June 1939 were transferred to another account at the Bank, numbered 61957, the owner of which is unknown (the actual repository for these bonds is listed as *Midland Bank Ltd.* in London);
- *6.5% Mortg. Bank of Chile guar.skg.fd.gld.bds. Per 30. Juni 1957* bonds with a face value of US \$2,000.00, which were transferred to an unknown account, numbered 61957, on 12 June 1939 (the actual repository for these bonds is listed as *Guaranty Trust Co. of New York* in New York);
- *6.5% United States of Brazil, ext. sinking fund bonds per 15. Okt. 1957 Amerik. Tranche* with a face value of US \$2,000.00, which on 12 June 1939 were transferred to another account at the Bank, numbered 61957, the owner of which is unknown (the actual repository for these bonds is listed as *Guaranty Trust Co. of New York* in New York);
- *25 Baltimore & Ohio Railroad Co. Common shares à \$100*, shares which were sold on 22 July 1938 (the actual repository for these shares is listed as *Guaranty Trust Co. of New York* in New York);
- *35 Kennecott Copper Corporation commons shares ohne Nennwert*, shares which on 12 June 1939 were transferred to another account at the Bank, numbered 61957, the owner of which is unknown (the actual repository for the shares is listed as *Guaranty Trust Co. of New York* in New York);
- *70 Continental Oil Company of Delaware comm. shares à \$5.--*, shares which on 12 June 1939 were transferred to another account at the Bank, numbered 61957, the owner of which is unknown (the actual repository for these shares is listed as *Guaranty Trust Co. of New York* in New York);
- *70 Pacific Western Oil corporation, capital stock shares à \$10.--*, shares which were sold on 22 July 1938 (the actual repository for these shares is listed as *Guaranty Trust Co. of New York* in New York);
- *85 Pennsylvania Railroad Company common shares à \$50.--*, shares which on 12 June 1939 were transferred to another account at the Bank, numbered 61957, the owner of which is unknown (the actual repository for these shares is listed as *Guaranty Trust Co. of New York* in New York);
- *85 Cable and Wireless Holding Limited Ord. Stock*, shares which were sold on 29 October 1938;
- *250 English and International Trust Limited ordinary stock*, shares which were sold on 27 July 1938; and

- 450 *Società Italiana per il Gas, Torino Aktien à Lit.10.--*, shares which were sold on 26 July 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 November 2004 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 Owners nor their heirs received the proceeds of their accounts.

Value of the Accounts in the November 2004 Award

In the November 2004 Award, the CRT determined that the Account Owners held two custody accounts 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 accounts awarded in November 2004, 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, and the average value of a demand deposit account was SF 2,140.00.

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 bonds 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. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owner held a custody account, numbered L52426, with the following securities:

- 3% *German Funding Bonds per 1. Jan. 1946* bonds with a face value of US \$8,100.00. These bonds were in default and were trading at 20.50% when transferred on 12 June

1939.³ Therefore, these bonds shall be valued at their market value of US \$1,660.50, which was equivalent to SF 7,372.62;⁴

- 6% *State of San Paulo, est. Sterling loan per 1. Juli 1968* bonds with a face value of £400.00. These bonds were in default and were trading at 28.00% when they were transferred on 12 June 1939. Therefore, these bonds shall be valued at their market value of £112.00, which was equivalent to SF 2,203.04;⁵
- 6.5% *Mortg. Bank of Chile guar.skg.f.d.gld.bds. Per 30. Juni 1957* bonds with a face value of US \$2,000.00. These bonds were in default and were trading at 12.88% when they were transferred on 12 June 1939. Therefore, these bonds shall be valued at their market value of US \$257.50, which was equivalent to SF 1,143.30;⁶
- 6.5% *United States of Brazil, ext. sinking fund bonds per 15. Okt. 1957 Amerik. Tranche* bonds with a face value of US\$ 2,000.00. These bonds were in default and were trading at 17.18% when they were transferred on 12 June 1939. Therefore, these bonds shall be valued at their market value of US \$343.63, which was equivalent to SF 1,525.70;⁷
- 25 *Baltimore & Ohio Railroad Co. Common shares à \$ 100.--*, shares each with a market value of US \$10.125 when they were sold on 22 July 1938, for a total market value of US \$253.13, which was equivalent to SF 1,106.16;⁸
- 35 *Kennecott Copper Corporation commons shares ohne Nennwert*, shares each with a market value of US \$33.625 when transferred on 12 June 1939, for a total market value of US \$1,176.88, which was equivalent to SF 5,225.33;⁹
- 70 *Continental Oil Company of Delaware comm. shares à \$5.-- commons shares ohne Nennwert*, shares each with a market value of US \$23.875 when transferred on 12 June 1939, for a total market value of US \$1,671.25, which was equivalent to SF 7,420.35;¹⁰
- 70 *Pacific Western Oil corporation, capital stock shares à \$10.--*, shares each with a market value of US\$ 13.025 when sold on 22 July 1938, for a total market value of US \$911.75, which was equivalent to SF 3,984.35;¹¹
- 85 *Pennsylvania Railroad Company common shares à \$50.--*, shares each with a market value of US \$18.25 when transferred on 12 June 1939, for a total market value of US \$1,551.25, which was equivalent to SF 6,887.55;¹²
- 85 *Cable and Wireless Holding Limited Ord. Stock*, shares each with a market value of £2.2125 when sold on 28 October 1938, for a total market value of £188.06, which was equivalent to SF 4,018.90;¹³ and

³ The market value for this security was obtained from *Moody's Governments 1940*, at 1832.

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

⁵ The market value for this security was obtained from *The Financial Times*, 13 June 1939.

⁶ The market value for this security was obtained from *The New York Times*, 13 June 1939.

⁷ The market value for this security was obtained from *The New York Times*, 13 June 1939.

⁸ The market value for this security was obtained from *The New York Times*, 23 July 1938.

⁹ The market value for this security was obtained from *The New York Times*, 13 June 1939.

¹⁰ The market value for this security was obtained from *The New York Times*, 13 June 1939.

¹¹ The market value for this security was obtained from *Moody's Industrials 1940*, at 1898.

¹² The market value for this security was obtained from *The New York Times*, 13 June 1939.

¹³ The market value for this security was obtained from *The Financial Times*, 31 October 1938.

- 250 *English and International Trust Limited ordinary stock*, shares each with a market value of £0.7375 when sold on 27 July 1938, for a total market value of £184.38, which was equivalent to SF 3,940.09;¹⁴ and
- 450 *Società Italiana per il Gas, Torino Aktien à Lit.10.--*, shares each with a market value of US\$ 14.50 when sold on 26 July 1938, for a total market value of US \$6,525.00, which was equivalent to SF 28,514.25.¹⁵

The CRT notes that the Bank's records do not indicate who owned the account numbered 61957, into which certain of the securities were transferred. Even if this account were owned by the Account Owners, the records do not indicate when this account was closed, or the disposition of the securities contained within. Accordingly, the CRT concludes that the Account Owners did not receive these securities or their proceeds.

The CRT further notes that eight of these securities were held in New York, New York, the United States. The CRT further notes that it was general practice for most US-issued securities to remain physically in the United States, deposited in a US bank, and that trade in Europe in these issues was by way of so-called depositary receipts. Although the security certificates thus remained in the United States, the Bank in Switzerland was ultimately in control of these assets, as ownership rested with the depositary receipts.

Therefore, the Bank's records indicate that the total value of the custody account, numbered L52426, in March 1938 was SF 73,341.62. The Article 29 value of SF 13,000.00, which was used in the November 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 60,341.62. Additionally, the Article 29 value of the custody account erroneously awarded in the November 2004 Award is subtracted, resulting in a total of SF 47,341.62. The current value of this amount is determined by multiplying this amount by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total Award Amendment amount of SF 591,770.25.

Division of the Award 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. Accordingly, Antoinette Bentley, as the child of the Account Owners, is entitled to one-half of the total Award Amendment amount, and Elizabeth Jarvis and Marietta Hurst, as the paternal grandchildren of the Account Owners, are each entitled to one-fourth of the total Award Amendment amount.

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

¹⁴ The market value for this security was obtained from *Stock Exchange Official Yearbook 1940*, at 2711.

¹⁵ The market value for this security was obtained from *Moody's Utilities 1940*, at 626.

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

Claims Resolution Tribunal
29 September 2008