

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to the Estate of Claimant [REDACTED 1]^{1, 2, 3}
also acting on behalf of [REDACTED 2] and [REDACTED 3]
represented by Stephen Harnik

in re Accounts of Marie Ronsperger, Luise Ronsperger and Marianne Hantsch

Claim Number: 222478/WT

Original Award Amount: 216,000.00 Swiss Francs

Award Amendment Amount: 59,038.75 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED] (the “Claimant”) to the accounts of Luise Ronsperger and Mrs. Ronsperger. This Award Amendment is to the published accounts of Luise Ronsperger (“Account Owner Luise Ronsperger”), Marie Ronsperger (“Account Owner Marie Ronsperger”), and Marianne Hantsch (“Account Owner Hantsch”) (together the “Account Owners”) at the Zurich branch of 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 18 November 2004, the Court approved an Award to the Claimant for a custody account held by the Account Owners at the Bank (the “November 2004 Award”). At the time of that award, the Bank’s 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

¹ On 18 November 2004, the Court approved an award to Claimant [REDACTED 1], née [REDACTED] (the “Claimant”) for the accounts of Marie Ronsperger, Luise Ronsperger and Marianne Hantsch (the “November 2004 Award”), which is the subject of this Award Amendment.

² In a telephone conversation with the CRT on 22 September 2008, represented party [REDACTED 3] informed the CRT that his cousin, [REDACTED 1] (the Claimant), had passed away.

³ The Claimant submitted two additional claims, which are registered under the Claim Numbers 222476 and 222477. In a separate decision, the CRT awarded the accounts of Karl Kautsky, Luise Kautsky, Benedikt Kautsky and Charlotte Kautsky to the Claimant and the parties she represents. See *In re Accounts of Karl Kautsky, Luise Kautsky, Benedikt Kautsky and Charlotte Kautsky* (approved on 28 July 2004).

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 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 one custody account and two demand deposit accounts at the Bank. 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 and that the Claimant and the two represented parties were each entitled to a one-third share of the total award amount.

Finally, the CRT determined that the Banks' 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 November 2004 Award, the Bank's records indicate the name, city of residence and marital status of the Account Owners. The records indicate that the Account Owners held a custody account, numbered 35083, which was closed on 31 May 1938, and two demand deposit accounts, one of which was closed on or before 31 May 1938, and one which was closed on an illegible date. They further identified Account Owner Marie Ronsperger as being widowed.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account numbered 35083. 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 Owners were deemed to have lost control over the account, it contained the following securities:

- *7.5% Tyrol Hydro-Electric Power Company thirty year closed 1st mtge.s.f.gold bonds per 1. Mai 1955* bonds with a face value of 2,500.00 United States Dollars ("US \$"), which were sent (*zugesandt*) on 13 April 1938;
- *150 Société Nationale des Chemins de Fer Belges 4% Vorzugs-Aktien à bfrs. 500 Belg. Tranche* shares with a face value of 500.00 Belgian Francs ("Bfr.") each, which were transferred to the *Oesterr. Industrie-Kredit Wien* on 11 April 1938 (the actual repository of these shares is listed as the *Banque de Bruxelles* in Brussels, Belgium); and

- 7 *Société Nationale des Chemins de Fer Belges, actions de jouiss. ohne Nennwert* shares, which were transferred to an unknown account numbered 35609 on 25 May 1938 (the actual repository of these shares is listed as the *Banque de Bruxelles* in Brussels).

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 he is related to the Account Owners, 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 Account Owners owned one custody account and two demand deposit accounts. The value of the two demand deposit accounts held by the Account Owners 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 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.

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. Bonds in default and shares are awarded at market value.

According to the additional information from the Bank, the Account Owners held a custody account, numbered 35083, with the following securities:

- 7.5% *Tyrol Hydro-Electric Power Company thirty year closed 1st mtge.s.f.gold bonds per 1. Mai 1955*. These bonds were in default and were trading at 18.75% when transferred to an unknown account, numbered 35609, on 16 September 1938 13 April 1938.⁴ Therefore,

⁴ The market value for this security was obtained from *Moody's Utilities 1940*, p. 631.

these bonds shall be valued at their market value of US \$468.75, which was equivalent to SF 2,048.44;⁵

- 150 *Société Nationale des Chemins de Fer Belges 4% Vorzugs-Aktien à bfrs. 500 Belg. Tranche* shares. These shares were trading at 141.50% when transferred on 11 April 1938, for a total market value of Bfr. 106,125.00, which was equivalent to SF 15,674.66;⁶ and
- 7 *Société Nationale des Chemins de Fer Belges actions de jouiss. ohne Nennwert* shares. These shares were transferred on 25 May 1938. The CRT notes that no value information is available for these shares. Accordingly, no value is awarded for these shares.⁷

The CRT notes that the Bank's records do not indicate who owned the account numbered 35609 into which one of the securities was transferred. Even if this account were owned by the Account Owners, the records do not indicate when the account was closed, or the disposition of the securities contained within. Accordingly, the CRT concludes that the Account Owners did not receive this security or its proceeds.

Therefore, the Bank's records indicate that the total value of the custody account in May 1938 was SF 17,723.10. 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 4,723.10. 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 59,038.75.

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, the Claimant, and the represented parties [REDACTED 2] and [REDACTED 3], who are the grandchildren of the Account Owners, are each entitled to a one-third share 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 his claim to determine whether there are additional Swiss bank accounts to which he 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).

⁵ The CRT uses official exchange rates when making currency conversions.

⁶ The market value for this security was obtained from *Vos' Wekelijksche Uitlotings-Courant*, 28 July 1938.

⁷ It appears that these shares may have been issued in lieu of dividends.

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
18 December 2008