

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Accounts of Rudolf and Gisa Roubitschek

Claim Number: 213410/CU

Original Award Amount: 174,110.00 Swiss Francs

Award Amendment Amount: 240,235.25 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Rudolf Roubitschek (“Account Owner Rudolf Roubitschek”) and Gisa Roubitschek (“Account Owner Gisa Roubitschek”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 and a demand deposit account owned by the Account Owners (the “January 2002 Award”). At the time of that award, the bank records then 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.

¹ On 27 January 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Rudolf and Gisa Roubitschek (the “January 2002 Award”), which is the subject of this Award Amendment.

² The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), only the name Rudolf Roubitschek appears. Upon careful review, the CRT determined that the account was held jointly by Rudolf and Gisa Roubitschek.

Furthermore, the CRT notes that in the January 2002 Award, the CRT did not come to a decision about who received the proceeds of an additional demand deposit account. This account will be treated in a separate decision.

The January 2002 Award

In the January 2002 Award, the CRT determined that the Account Owners owned one custody account and two demand deposit accounts. 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 one of their demand deposit accounts and the custody 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 accounts, 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 names, the domicile of the Account Owners, and the title of Account Owner Rudolf Roubitschek. According to these records, the Account Owners resided in Karlsbad (today Karlovy Vary), Reichsgau Sudetenland (today Czech Republic). These records indicate that the Account Owners jointly held a demand deposit account in Swiss Francs, a demand deposit account in foreign currency and a custody account, numbered L40275. The records further indicate that the demand deposit account held in foreign currency was closed on 20 January 1935, custody account L40275 on 28 March 1939, and the demand deposit account held in Swiss Francs on 31 March 1939.

As noted above, the Bank recently provided the CRT with additional documents regarding custody account L40275. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within custody account L40275.

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

- *3.5% Eidgenössische Staatsanleihe von 1937*, bonds with a nominal value of SF 7,500.00, which were sold on 26 January 1939;
- *4% Eidgenössische Staatsanleihe von 1933*, bonds with a nominal value of SF 15,000.00, which were sold on 26 January 1939;
- *4.5% Bons du Trésor Français von 1933*, bonds with a nominal value of French Francs ("FF") 56,000.00, which were transferred on 24 March 1939 to Comz. D, Esc. Paris;

- *5% Oesterreichische garantierte Konversionsanleihe von 1934 Schweizer Tranche*, bonds with a nominal value of SF 5,000.00, which were sold 26 January 1939;
- *7% Republic of Poland Stabilization Loan Ext. Skg. Fd. Gold bonds per 15 Oktober 1947 Amerikanische Tranche*, bonds with a nominal value of U.S. Dollar (“U.S.\$”) 500.00, which were sold on 27 February 1939; and
- *8% Staat San Paolo von 1921*, bonds with a nominal value of U.S.\$ 533.29, which were sold on 24 March 1939.

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 Owners, and that it is plausible that neither the Account Owners nor their heirs received the proceeds of their custody account and their demand deposit account denominated in Swiss Francs..

Value of the accounts in the January 2002 Award

In the January 2002 Award, the Account Owners held two demand deposit accounts and one custody account. The value of the demand deposit account denominated in Swiss Francs remains unaffected.³

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody account in January 2002, 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. However, if a bond is in default, the award valuation shall be the market value on or as close as possible to the relevant date.

³ As noted above, the demand deposit account in foreign currency closed on 20 January 1935 will be treated in a separate decision.

According to the additional information from the Bank, the Account Owners' custody account L40275 contained the following securities:

- 3.5% *Eidgenössische Staatsanleihe von 1937*, bonds with a nominal value of SF 7,500.00. These bonds were of good quality and were trading at 91.50% when sold on 26 January 1939. Since the bonds were of good quality and had market values below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds were SF 7,500.00;⁴
- 4% *Eidgenössische Staatsanleihe von 1933*, bonds with a nominal value of SF 15,000.00. These bonds were of good quality and were trading at 91.50% when sold on 26 January 1939. Since the bonds were of good quality and had market values below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds were SF 7,500.00;⁵
- 4.5% *Bons du Trésor Français von 1933*, bonds with a nominal value of French Francs ("FF") 56,000.00. These bonds were of good quality and were trading at 104.70% when sold on 24 March 1939. Since the bonds were of good quality and had market values above the nominal value, the market value will be used to determine the value of this asset. The total market value of these bonds were FF 58,632.00, which was equivalent to SF 6,519.88;⁶
- 5% *Oesterreichische garantierte Konversionsanleihe von 1934 Schweizer Tranche*, bonds with a nominal value of SF 5,000.00. These bonds were in default and trading at 30.00% when sold on 26 January 1939. Therefore, these bonds shall be valued at their market value of SF 1,500.00;⁷
- 7% *Republic of Poland Stabilization Loan Ext. Skg. Fd. Gold bonds per 15 Oktober 1947 Amerikanische Tranche*, bonds with a nominal value of U.S.\$ 500.00. These bonds were in default and trading at 62.13% when sold on 27 February 1939. Therefore, these bonds shall be valued at their market value of U.S.\$ 310.65, which was equivalent to SF 1,379.29;⁸ and
- 8% *Staat San Paolo von 1921*, bonds with a nominal value of U.S.\$ 533.29. These bonds were in default and trading at 13.50% when sold on 24 March 1939. Therefore, these bonds shall be valued at their market value of U.S.\$ 71.99, which was equivalent to SF 319.65.⁹

Therefore, the Bank's records indicate that the total value of the custody account in 1939 was SF 32,218.82. 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 19,218.82. The

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 29 December 1939.

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 29 December 1939.

⁶ The CRT uses official exchange rates when making currency conversions. The market value for this security was obtained from the *Le Temps*, 25 March 1939.

⁷ The market value for this security was obtained from the 23 November 1939 issue of the *Kursblatt der Zürcher Effektenbörse*.

⁸ The market value for this security was obtained from the Moody's Manual of Investments, American and Foreign: Government Securities, Moody's Investors Service, New York, 1940, pp. 1941.

⁹ The market value for this security was obtained from the Moody's Manual of Investments, American and Foreign: Government Securities, Moody's Investors Service, New York, 1940, pp. 1737, 1738.

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 240,235.25.

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
16 April 2010