

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]¹
also acting on behalf of Olga [REDACTED 2], née Schlesinger

in re Account of Olga Schlesinger

Claim Number: 300535/WT

Original Award Amount: 162,500.00 Swiss Francs

Award Amendment Amount: 426,250.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (the “Claimant”) to the account of Ernst Schlesinger.² This Award Amendment is to the published account of Olga Schlesinger (the “Account Owner”) 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 20 May 2004, the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “May 2004 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 May 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 20 May 2004, the Court approved an award to [REDACTED 1] (the “Claimant”) for the account of Olga Schlesinger (the “May 2004 Award”), which is the subject of this Award Amendment.

² The CRT treated the claim to this account in a separate decision. See *In re Account of Ernst Schlesinger* (approved on 23 June 2008).

The May 2004 Award

In the May 2004 Award, the CRT determined that the Account Owner owned one custody account. The CRT further determined that the Claimant plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he 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 her account. The CRT also determined that represented party Olga [REDACTED 2], née Schlesinger, was the Account Owner, and was entitled to the total award amount, and that the Claimant, who is the brother of the Account Owner, was not entitled to share in the award amount.

Finally, the CRT determined that the Bank's record 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 May 2004 Award, the Bank's records indicate the name, city of residence and marital status of the Account Owner. These records indicate that the Account Owner held a custody account, numbered 55495, which was closed on 15 March 1939.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account 55495. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within custody account 55495. These documents also record the closing date of this account as 21 March 1939 (*laut Meldung*).

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% *Schweizerische Bundesbahnen 1938* bonds with a face value of SF 1,000.00, which were sold on 18 March 1939;
- 3% [REDACTED], *Zürich fällig am 2. November 1941* short-term paper with a face value of SF 19,000.00, which was delivered ("*ausgeliefert*") on 16 March 1939;
- 3% *Zürcher Kantonalbank, Zürich kündbar ab 11. April 1942 auf 3 resp. 6 Monate* short-term paper with a face value of SF 1,000.00, which was delivered on 16 March 1939;
- 3.5% *Eidgenössische Anleihe von 1937* bonds with a face value of SF 1,000.00, which were sold on 18 March 1939;
- 3.5% *Schweizerische Bundesbahnen Anl. der Centralbahn von 1894* bonds with a face value of SF 10,000.00, which were sold on 18 March 1939;
- 4% *Eidgenössische Anleihe von 1930* bonds with a face value of SF 1,000.00, which were sold on 18 March 1939; and
- 4.5% *Eidgenössische Bank A.-G. Zürich fällig am 2. November 1939* short-term paper with a face value of SF 14,000.00, which was delivered on 16 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 May 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 Owner, and that it is plausible that neither the Account Owner nor her heirs received the proceeds of her account.

Value of the accounts in the May 2004 Award

In the May 2004 Award, the Claimant was awarded one custody account held by the Account Owner. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody account in May 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. Short-term paper is valued at its face value.

According to the additional information from the Bank, the Account Owner held a custody account numbered 55495 with the following securities:

- 3% *Schweizerische Bundesbahnen 1938* bonds with a face value of SF 1,000.00. These bonds were of good quality and were trading at 78.80% when sold on 18 March 1939. As these bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value of these bonds was SF 1,000.00;³
- 3% [REDACTED], *Zürich fällig am 2. November 1941* short-term paper with a face value of SF 19,000.00, which was delivered on 16 March 1939. This short-term paper shall be valued at its total face value of SF 19,000.00;
- 3% *Zürcher Kantonalbank, Zürich kündbar ab 11. April 1942 auf 3 resp. 6 Monate* short-term paper with a face value of SF 1,000.00, which was delivered on 16 March 1939. This short-term paper shall be valued at its total face value of SF 1,000.00;

³ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

- 3.5% *Eidgenössische Anleihe von 1937* bonds with a face value of SF 1,000.00. These bonds were of good quality and were trading at 91.50% when sold on 18 March 1939. As these bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value of these bonds was SF 1,000.00;⁴
- 3.5% *Schweizerische Bundesbahnen Anl. der Schweizerischen Centralbahn von 1894* bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 93.30% when sold on 18 March 1939. As these bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value of these bonds was SF 10,000.00;⁵
- 4% *Eidgenössische Anleihe von 1930* bonds with a face value of SF 1,000.00. These bonds were of good quality and were trading at 110.00% when sold on 18 March 1939. As these bonds were of good quality and had market values above their face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 1,100.00;⁶ and
- 4.5% *Eidgenössische Bank A.-G., Zürich fällig am 2. November 1939* short-term paper with a face value of SF 14,000.00. This short-term paper shall be valued at its total face value of SF 14,000.00.

Therefore, the Bank's records indicate that the total value of the custody account was SF 47,100.00. The Article 29 value of SF 13,000.00, which was used in the May 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 34,100.00. 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 426,250.00.

Division of the Award Amendment

The Claimant is representing his sister in these proceedings, and as she is the actual Account Owner she is entitled to receive the entire 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).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Certification of the Award Amendment

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

Claims Resolution Tribunal
25 September 2008