

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 [REDACTED 2]
represented by Yuval Hen

in re Accounts of Georg Schwarz

Claim Numbers: 150095/DE; 710664/DE²

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 407,500.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published accounts of Georg Schwarz (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 15 July 2005, the Court approved an Award to the Claimant for one custody account and one demand deposit owned by the Account Owner (the “July 2005 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 July 2005 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 15 July 2005, the Court approved an award to Claimant [REDACTED 1] (the “Claimant”) for the accounts of Georg Schwarz (the “July 2005 Award”), which is the subject of this Award Amendment.

² In addition to submitting a Claim Form to the CRT, the Claimant submitted an Initial Questionnaire (“IQ”), numbered HEB 0001 144, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 710664.

The July 2005 Award

In the July 2005 Award, the CRT determined that the Account Owner owned one custody account and one demand deposit account. The CRT further determined that the Claimant plausibly identified the Account Owner, that she plausibly demonstrated that she is related to the Account Owner, and that she 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 his account and that the Claimant and the represented party, her brother [REDACTED 2], are each entitled to one-half of the total 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 Record

As detailed in the July 2005 Award, the Bank's record indicates the account owner was Georg Schwarz who resided in Leipzig, Germany. The record indicates that the Account Owner held one demand deposit and one custody account, which were opened in May 1929 and that the custody account, which was numbered L 34644, was closed on 22 December 1933 and that the demand deposit account was closed on 31 December 1933.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account 34644. 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 Owner was deemed to have lost control over the account, it contained the following securities:

- *5% A-G vorm. Mechanische Seidenstoffweberei Bern & Appenzeller, Wettstein & Co. Zürich von 1930* bonds with a face value of SF 5,000.00, which were transferred on 20 December 1933 to another account in the Bank, numbered 9582, the owner of which is not known.;
- *5% Pfandbriefe Caisse Hyp. Du Canton de Genève von 1929, Serie B* bonds with a face value of SF 10,000.00, which were transferred on 20 December 1933 to another account in the Bank, numbered 9582, the owner of which is not known.;
- *5% Schweizerische Bundesbahnen 5. Elektr. Anl. von 1925* bonds with a face value of SF 10,000.00, which were on 20 December 1933 to another account in the Bank, numbered 9582, the owner of which is not known.;
- *5% Stadt Bern von 1925* bonds with a face value of SF 10,000.00, which were sold on 22 July 1933; and
- *5% Stadt Zürich von 1925* bonds with a face value of SF 10,000.00, which were sold on 22 July 1933.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimant in one proceeding.]

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 July 2005 Award that the claims are admissible in accordance with Article 18 of 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 Owner nor his heirs received the proceeds of her accounts.

Value of the accounts in the July 2004 Award

In the July 2005 Award, the Account Owner held one custody account 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 custody account in the July 2005 Award, 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.

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

- *5% A-G vorm. Mechanische Seidenstoffweberei Bern & Appenzeller, Wettstein & Co. Zürich von 1930* bonds with a face value of SF 5,000.00. The market value of these bonds at the time they were transferred, on 20 December 1933, is not known. However, as these bonds were of good quality, they shall be valued at their face value of SF 5,000.00;

- 5% Pfandbriefe Caisse Hyp. Du Canton de Genève von 1929, Serie B bonds with a face value of SF 10,000.00. The market value of these bonds at the time they were transferred, on 20 December 1933, is not known. However, as these bonds were of good quality, these bonds shall be valued at their face value of SF10,000.00;
- 5% Schweizerische Bundesbahnen 5. Elektr. Anl. Von 1925 B bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 103% when transferred on 20 December 1933. Since the 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 10,300.00 SF;³
- 5% Stadt Bern von 1925 B bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 102% when sold on 22 July 1933. Therefore, these bonds shall be valued at their market value of 10,200.00 SF ;⁴ and
- 5% Stadt Zürich von 1925 B bonds with a face value of SF 10,000.00. These bonds were of good quality and were trading at 101% when sold on 22 July 1933. Therefore, these bonds shall be valued at their market value of 10,100.00 SF .⁵

The CRT notes that the Bank's records do not indicate who owned account 9582, into which certain of the securities were transferred. Even if this account was owned by the Account Owner, 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 Owner did not receive these securities or their proceeds.

Therefore, the Bank's records indicate that the total value of the custody account in June 1938 was SF 45,600.00. The Article 29 value of SF 13,000.00, which was used in the July 2005 Award, is then subtracted from the actual historic value, resulting in a difference of SF 32,600.00. 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 407,500.00.

Division of the Award Amendment

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, the Claimant is representing her brother, [REDACTED 2]. Accordingly, the Claimant and the represented party are each entitled to one-half 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 claims to determine whether there are additional Swiss bank accounts to

³ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

⁵ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1933.

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
11 August 2008