

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] and [REDACTED 3]

in re Accounts of Bernhard Steinhart

Claim Numbers: 750297/BW; 776567/BW; 776568/BW

Original Award Amount: 1,115,201.13 Swiss Francs

Award Amendment Amount: 113,125.00 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1] (the “Claimant”), to the published accounts of Bernhard Steinhart (the “Account Owner”), over which Irma Steinhart (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (“Bank 1”) and to the unpublished accounts of the Account Owner at the Zurich branch of [REDACTED] (“Bank 2”) (together, “the Banks”).

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 30 Dec 2004, the Court approved an Award to Claimant [REDACTED 1] for the Account Owner’s accounts (the “December 2004 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the December 2004 Award to address the type of one of the accounts at Bank 1 addressed in the December 2004 Award.

The December 2004 Award

In the December 2004 Award, the CRT determined that the Account Owner owned a safe deposit box and an account of unknown type at Bank 1, as well as various bonds, gold and currency at Bank 2. The CRT determined that Claimant [REDACTED 1] plausibly identified the Account

¹ On 30 December 2004, the Court approved an award to [REDACTED 1] (“Claimant [REDACTED 1]”) and the parties he represents for the accounts of Bernhard Steinhart (the “December 2004 Award”), which is the subject of this Award Amendment.

Owner, that he plausibly demonstrated that he is related to the Account Owner, that the Account Owner was a Victim of Nazi Persecution, and that it was plausible that neither the Account Owner nor his heirs received the proceeds of the assets. The CRT determined that the value of the two accounts at Bank 1 was SF 5,190.00, and that the combined historic value of the assets held by the Account Owner at Bank 2 was SF 84,026.09. The total award amount of the December 2004 Award was SF 1,115,201.13. Finally, the CRT determined that Claimant [REDACTED 1] was entitled to one-half of the award amount, and represented parties [REDACTED 3] and [REDACTED 2] were each entitled to one-fourth of the award amount.

Information Available in the Banks' Records

As detailed in the December 2004 Award, Bank 1's records consist of a safe deposit box registry card, a safe deposit box closure card, a register of closed numbered accounts, a power of attorney form, and printouts from Bank 1's database. According to these records, the Account Owner was Bernhard Steinhart and the Power of Attorney Holder was *Frau* (Mrs.) Irma Steinhart, née Frey, the Account Owner's wife, who both resided at Bürggasse 6 in Vienna VII, Austria. These records indicate that the Account Owner held a safe deposit box and an account of unknown type. Bank 1's records indicated that the account of unknown type was closed and transferred to the account of an unknown party on 26 April 1938, and the safe deposit box was closed on 20 April 1938, also to an unknown party. There was no evidence in Bank 1's records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

As the CRT noted in the December 2004 Award, the auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Bernhard Steinhart during their investigation at Bank 2. Information regarding the Account Owners assets at Bank 2 was obtained from the records of the Austrian State Archive. These documents referenced a criminal prosecution of the Account Owner by the Nazi government for failing to report certain bonds, gold and currency held at Bank 2 after the decree of 26 April 1938 which required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a certain level to register all their assets as of 27 April 1938 (the "1938 Census").

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process (the "Rules"), the CRT requested the voluntary assistance of Bank 1 to obtain additional information ("Voluntary Assistance"). Subsequent to the December 2004 Award, the CRT received additional documents from Bank 1. These documents consist of excerpts from Bank 1's ledgers and indicate that the account of unknown type belonging to the Account Owner at Bank 1 was actually a custody account. These documents do not indicate the amount in this account at the time it was closed and transferred to the account of an unknown party on 26 April 1938, and there is no evidence that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

The CRTs Analysis

Amount of the Award Amendment

Based on review of the additional information provided by Bank 1, the CRT has determined that the account identified as an account of unknown type was, in fact, a custody account. No value information is available for this account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or similar types of accounts in 1945 is used to calculate its current value. Based upon the ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00.

In the December 2004 Award, this account was valued as an account of unknown type with a value of SF 3,950.00. The difference this amount and the value of a custody account is SF 9,050.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with article 31(1) of the Rules, to produce an award amendment amount of SF 113,125.00.

Division of the Award Amendment

The Award Amendment is to be distributed among the entitled parties in the same proportion as the original award. As detailed in the December 2004 Award, according to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing his cousins, [REDACTED 3] and [REDACTED 2], who are siblings. The CRT deems that it is consistent with principles of fairness and equity that the total award amount be divided, in equal shares by representation. Accordingly, the Claimant is entitled to one-half of the total award amendment amount, and [REDACTED 3] and [REDACTED 2] are each entitled to one-quarter of the total award amendment amount.

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
16 April 2010