

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Otto Strakosch

Claim Numbers: 210724/AC; 210725/AC

Award Amount: 86,538.88 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the accounts of Otto Strakosch (the “Account Owner”). This Award Amendment is to the Account Owner’s unpublished account at the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

On 20 November 2002 the Court approved an Award to the Claimant for two custody accounts and one demand deposit account owned by the Account Owner (the “November 2002 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the November 2002 Award. Based upon further evidence regarding the reliability of the declarations made in the Nazi decreed 1938 Census of Jewish-owned assets (the “1938 Census”), the CRT determines that the value of the custody account held by the Account Owner at the Bank was 13,000.00 Swiss Francs (“SF”), and that given the foregoing, the November 2002 Award amount shall accordingly be increased by SF 86,538.88.

The CRT notes that in the November 2002 Award, the CRT 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. Based on the information contained in the Bank’s records and in the Austrian State Archives regarding the Account Owner’s 1938 Census declaration, the CRT determined that the Account Owner held one custody account at the Bank, and that the value of the custody account was SF 6,076.89 as of February 1937. Additionally, in the November 2002 Award, the CRT determined that it is plausible that the Account Owner did not receive the proceeds of his custody account held at the Bank. Finally, the CRT determined that the November 2002 Award amount was SF 834,619.08, including an amount of SF 72,922.68 for the custody account held by the Account Owner at the Bank.

The CRT's Analysis

Amount of the Award Amendment

In the November 2002 Award, the CRT determined that the value of the Account Owner's custody account held at the Bank was SF 6,076.89, which is the amount recorded in the Account Owner's 1938 Census declaration as the value of the custody account as of February 1937.

However, the CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all his assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in a custody account is less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the custody account shall be determined to be SF 13,000.00.

Accordingly, the CRT does not find that the value of the custody account held at the Bank and indicated in the 1938 Census constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the Account Owner's custody account shall be determined to be SF 13,000.00. The amount of SF 6,076.89, which is the value of the account used in the November 2002 Award, is subtracted from the Article 29 value, resulting in a difference of SF 6,923.11. The current value of this amount is calculated by multiplying the difference by a factor of 12.5, in accordance with Article 31(1) of the Rules. Accordingly, the amount of the November 2002 Award is increased by SF 86,538.88, which reflects the adjusted difference between the value of the Account Owner's custody account recorded in his 1938 Census declaration and the value determined by Article 29 of the Rules.

Division of the Award

The Claimant is representing her sister in these proceedings. According to Article 29 of the Rules, her sister is entitled to receive one-half of any amount awarded.

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
21 October 2004