

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to the Estate of Claimant Edith Straus<sup>1,2</sup>  
represented by [REDACTED]

## **in re Account of Edith Strauss**

Claim Numbers: 600048/DE<sup>3</sup>

Original Award Amount: 162,500.00 Swiss Francs

Award Amendment Amount: 150,000.00 Swiss Francs

This Certified Award Amendment is based upon the claim of Edith Straus (the “Claimant”) to the published accounts of Edith Strauss (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 claimant, any relative of the claimant other than the account owner, and the bank have been redacted.

## **Procedural History**

On 31 December 2003, the Court approved an Award to the Claimant for a custody account owned by the Account Owner (the “December 2003 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 December 2003 Award based upon this additional information recently forwarded to the CRT by the Bank.

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<sup>1</sup> On 31 December 2003, the Court approved an award to the Estate of Claimant Edith Straus (the “Claimant”) for the account of Edith Strauss (the “December 2003 Award”), which is the subject of this Award Amendment. This award amendment does not affect the approved award to the Claimant for the demand deposit account of Edith Strauss. See *in re Account of Edith Strauss* (approved on 28 September 2004).

<sup>2</sup> The CRT notes that the Claimant passed away on 14 October 2001.

<sup>3</sup> The Claimant submitted a claim, numbered B-02049, on 4 October 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600048.

## **The December 2003 Award**

In the December 2003 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 she plausibly demonstrated that she is the Account Owner, and that she made a plausible showing that she, 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 and that the Claimant was entitled to the entire 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 December 2003 Award, the Bank's record indicate the Account Owner was Edith Strauss who resided in of Vienna. The record indicates that the Account Owner held one demand deposit, which was awarded in a separate decision on 28 September 2004 (the "September 2004 Award"), and one custody account, numbered L59902, which was opened on 23 February 1938 and closed on 14 September 1938. There is no evidence in the Bank's records that the Account Owner closed the accounts and received the proceeds herself.

As noted above, the Bank recently provided the CRT with additional documents regarding the custody account. 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 custody account, numbered 59902, it contained the following securities:

- 3% *Schweizerische Bundesbahnen von 1938* bonds with a face value of SF 20,000.00, which were sold on 10 September 1938; and
- 3% *Schweizerische Eisenbahnrente von 1890 Serie I* bonds with a face value of SF 5,000.00, which were sold on 10 September 1938.

## **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 December 2003 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 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 December 2003 Award

In the December 2003 Award, the Account Owner held one custody account and one demand deposit account awarded in the September 2004 Award. The September 2004 Award remains unaffected by this Award Amendment.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as was the case for the custody account in December 2003 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’s custody account, numbered 59902, held the following securities:

- *3% Schweizerische Bundesbahnen von 1938* bonds with a face value of SF 20,000.00. These bonds were of good quality and were trading at 97.90% when sold on 10 September 1938. Since these bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was SF 20,000.00;<sup>4</sup> and
- *3% Schweizerische Eisenbahnrente von 1890 Serie I* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 99% when sold on 10 September 1938. Since these bonds were of good quality and had market values below their face value, the face value will be used to determine the value of this asset. The total face value of these bonds was SF 5,000.00.<sup>5</sup>

Therefore, the Bank’s records indicate that the total value of the custody account before its closure in September 1938 was SF 25,000.00. The Article 29 value of SF 13,000.00, which was used in the December 2003 Award, is then subtracted from the actual historic value, resulting in a difference of SF 12,000.00. The current value of this amount is determined by multiplying this

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<sup>4</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

<sup>5</sup> The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

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 150,000.00.

### **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 Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
29 September 2008