

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Accounts of Hermann Zipper and Charlotte Zipper

Claim Number: 211359/RS; 211649/RS

Original Award Amount: 414,720.00 Swiss Francs

Award Amendment Amount: 158,465.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED] (the “Claimant”) to the published accounts of Hermann Zipper and Charlotte Zipper (the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).

All award amendments are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Procedural History

On 25 October 2002, the Court approved an Award to the Claimant for two custody accounts and four demand deposit accounts, all of which were jointly owned by the Account Owners (the “October 2002 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 accounts. 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 October 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

The October 2002 Award

In the October 2002 Award, the CRT determined that the Account Owners owned two custody accounts and four demand deposit accounts. The CRT further determined that the Claimant plausibly identified the Account Owners, that she plausibly demonstrated that she is related to

¹ On 25 October 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Hermann Zipper and Charlotte Zipper (the “October 2002 Award”), which is the subject of this Award Amendment.

the Account Owners, and that she made a plausible showing that the Account Owners were Victims of Nazi Persecution. Additionally, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their accounts and that the Claimant was entitled to the entire share of the award amount.

Finally, the CRT determined that the Bank's record did not indicate the value of the custody accounts, and therefore presumed that the value of the custody accounts was 13,000.00 Swiss Francs ("SF").

Information Available in the Bank's Record

As detailed in the October 2002 Award, the Bank's record indicates the names and city of residence of the Account Owners.

As noted above, the Bank recently provided the CRT with additional documents regarding one of the custody accounts. These documents contained a custody account identification card ("*Leitkarte*") and custody account portfolio holding cards ("*Depotvalorenkarten*") for each security held within that custody account.

Upon careful review of these new documents, the CRT has ascertained that the Bank's records do not in fact indicate the existence of two custody accounts and four demand deposit accounts jointly held by the Account Owners, but rather the existence of only one custody account and two demand deposit accounts jointly held by the Account Owners. The records indicate that the custody account, numbered L 47082, was closed on 12 April 1939, as was indicated in the October 2002 Award.

These documents indicate that at the time the Account Owners were deemed to have lost control over custody account numbered L 47082, it contained the following securities:

- 4% *Schweizerische Kreditanstalt Zürich* redeemable 5 December 1939 short-term paper with a nominal value of SF 1,000.00, which was transferred to the Bank's Geneva branch on 4 April 1939;
- 5% *Aktiengesellschaft der Eisen- und Stahlwerke vorm. Georg Fischer in Schaffhausen von 1932* redeemable 1 May 1944 bonds with a nominal value of SF 3,000.00, which were transferred to the Bank's Geneva branch on 4 April 1939;
- 4% *Argentinische äussere Anleihe 1933* bonds with a nominal value of SF 3,000.00, which were sent (*zugesandt*) to the Bank's Geneva branch on 4 April 1939;
- 4.5%/ 6% *Land Vorarlberg 1929/1937* bonds with a nominal value of SF 3,750.00, which were transferred to the Bank's Geneva branch on 4 April 1939;
- 5% *Compagnie des Chemins de Fer de l'Est S.A. 1932 ten-year* bonds with a nominal value of 10,000.00 French Francs ("FF"), which were sent ("*zugesandt*") to the Bank's Geneva branch on 4 April 1939;
- 4% *Grands Réseaux de Chemins de Fer Français 1937* redeemable 15 October 1939 bonds with a nominal value of SF 2,000.00, which were sent ("*zugesandt*") to the Bank's Geneva branch on 4 April 1939;

- 4.5% *New York Central Railroad Company ref. and impr. Serie 'A' mortgage* bonds with a nominal value of 1,000.00 United States Dollars (“US\$”), which were sent (“*zugesandt*”) to the Bank’s Geneva branch on 4 April 1939 (the actual repository of these bonds is listed as *Chase National Bank of the City of New York* in New York);
- 4% *Société Norvégienne de l’Azote et de Forces Hydro-Electriques (Notodden) 1937 Swiss Tranche* bonds with a nominal value of SF 2,000.00, which were sent (“*zugesandt*”) to the Bank’s Geneva branch on 4 April 1939;
- 10 *American Telephone & Telegraph Company* common shares, each with a face value of US\$ 100.00, which were transferred to the Bank’s Geneva branch and designated exempt (“*freigestellt*”) on 4 April 1939 (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York);
- 5 *Bethlehem Steel Corporation* common shares, which were transferred to the Bank’s Geneva branch on 4 April 1939 (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York);
- 20 *General Motors Corporation* common shares, each with a face value of US\$ 10.00, which were transferred to the Bank’s Geneva branch on 4 April 1939 (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York);
- 10 *International Nickel Company of Canada Limited* common shares, which were transferred to the Bank’s Geneva branch and designated exempt (“*freigestellt*”) on 4 April 1939 (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York);
- 10 *Montgomery Ward & Company Incorporated* common shares, which were transferred to the Bank’s Geneva branch and designated exempt (“*freigestellt*”) on 4 April 1939 (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York);
- 60 *Southern California Edison Company Limited 5.5% cumulative preferred 'C'* shares, each with a face value of US\$ 25.00, which were transferred to the Bank’s Geneva branch and designated exempt (“*freigestellt*”) on 4 April 1939 (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York); and
- 10 *F.W. Woolworth Company* common shares, each with a face value of US \$10.00, which were transferred to the Bank’s Geneva branch and designated exempt (“*freigestellt*”) on 4 April 1939 (the actual repository of these shares is listed as the *Chase National Bank of the City of New York* in New York).

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 October 2002 Award that the claim is admissible in accordance with Article 18 of the Rules, that the Claimant has plausibly demonstrated that she is related to the Account Owners, and that it is plausible that neither the Account Owners nor their heirs received the proceeds of their accounts.

Value of the accounts in the October 2002 Award

In the October 2002 Award, the Account Owners held two custody accounts and four demand deposit accounts. As indicated above, the CRT has determined that in fact, the Account Owners jointly held only one custody account and two demand deposit accounts. The value of the demand deposit accounts 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 October 2002 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 nominal value of bonds not in default shall be awarded if the market value was below the nominal 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 nominal value on the date the account owner is deemed to have lost control over the account. Short-term paper, a type of security, is valued at its nominal value. Stocks are valued at market value.

According to the additional information from the Bank, the Account Owners held the following securities in the custody account numbered L 47082:

- *4% Schweizerische Kreditanstalt Zürich redeemable 5 December 1939* short-term paper with a nominal value of SF 1,000.00. This short-term paper had a total nominal value on 4 April 1939 of SF 1,000.00;
- *5% Aktiengesellschaft der Eisen- und Stahlwerke vorm. Georg Fischer in Schaffhausen von 1932 redeemable 1 May 1944* bonds with a nominal value of SF 3,000.00. These bonds were of good quality, and were trading at 100% when they were transferred on 4 April 1939. Therefore, these bonds shall be valued at their market value of SF 3,000.00;²
- *4% Argentinische äussere Anleihe 1933* bonds with a nominal value of SF 3,000.00. These bonds were of good quality, and were trading at 100% when they were sent out of

² The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

the account on 4 April 1939. Therefore, these bonds shall be valued at their market value of SF 3,000.00;³

- 4.5%/ 6% *Land Vorarlberg 1929/ 1937* bonds with a nominal value of SF 3,750.00. These bonds were in default and were trading at 27% when they were sent out of the account on 4 April 1939. Therefore, these bonds shall be valued at their market value of SF 1,012.50;⁴
- 5% *Compagnie des Chemins de Fer de l'Est S.A. 1932 ten-year* bonds with a nominal value of FF. 10,000.00. These bonds were of good quality and were trading at 90.2% when they were sent out of the account on 4 April 1939. Since the bonds were of good quality and had market values below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was FF. 10,000.00, which was equivalent to SF 1,112.00;⁵
- 4% *Grands Réseaux de Chemins de Fer Français 1937 redeemable 15 October 1939* bonds with a nominal value of SF 2,000.00. These bonds were of good quality, and were trading at 100.35% when they were sent out of the account on 4 April 1939. Therefore, they shall be valued at their market value of SF 2,007.00;⁶
- 4.5% *New York Central Railroad Company ref. and impr. Serie 'A'* mortgage bonds with a nominal value of US\$ 1,000.00. These bonds were of good quality, and were trading at 51.56% when they were sent out of the account on 4 April 1939. Since the bonds were of good quality and had market values below the nominal value, the nominal value will be used to determine the value of this asset. The total nominal value of these bonds was US\$ 1,000.00, which was equivalent to SF 4,440.00;⁷
- 4% *Société Norvégienne de l'Azote et de Forces Hydro-Electriques (Notodden) 1937 Swiss Tranche* bonds with a nominal value of SF 2,000.00. These bonds were of good quality, and were trading at 101.25% when they were sent out of the account on 4 April 1939. Therefore, they shall be valued at their market value of SF 2,025.00;⁸
- 10 *American Telephone & Telegraph Company* common shares, each with a face value of US\$ 100.00, and each with a market value of US\$ 154.25 when transferred on 4 April 1939. Therefore, these shares shall be valued at their total market value of US\$ 1,542.50, which was equivalent to SF 6,848.70;⁹
- 5 *Bethlehem Steel Corporation* common shares, each with a market value of US\$ 59.25 when transferred on 4 April 1939. Therefore these shares shall be valued at their total market value of US\$ 296.25, which was equivalent to SF 1,315.35;¹⁰
- 20 *General Motors Corporation* common shares, each with a nominal value of US\$ 10.00, and each with a market value of US\$ 40.9375 when transferred on 4 April 1939.

³ The market value for this security was obtained from Bank information previously in the CRT's possession.

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1939.

⁵ The market value for this security was obtained from *Le Temps*, 5 April 1939. The CRT uses official exchange rates when making currency conversions.

⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

⁷ The market value for this security was obtained from *The New York Times*, 5 April 1939.

⁸ The market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1938.

⁹ The market value for this security was obtained from *The New York Times*, 5 April 1939.

¹⁰ Ibid.

Therefore these shares shall be valued at their total market value of US\$ 818.75, which was equivalent to SF 3,635.25;¹¹

- *10 International Nickel Company of Canada Limited* common shares, each with a market value of US\$.3125 when transferred on 4 April 1939. Therefore these shares shall be valued at their total market value of US\$ 463.13, which was equivalent to SF 2,056.28;¹²
- *10 Montgomery Ward & Company Incorporated* common shares, each with a market value of US \$44.6875 when transferred on 4 April 1939. Therefore, these shares shall be valued at their total market value of US\$ 446.88, which was equivalent to SF 1,984.13;¹³
- *60 Southern California Edison Company Limited 5.5% cumulative preferred 'C' shares*, each with a face value of US\$ 25.00, and each with a market value of US\$ 28.125 when transferred on 4 April 1939. Therefore, these shares shall be valued at their total market value of US\$ 1,687.50, which was equivalent to SF 7,492.50;¹⁴ and
- *10 F.W. Woolworth Company* common shares, each with a face value of US\$ 10.00, and each with a market value of US \$45.6875 when transferred on 4 April 1939 of. Therefore, these shares shall be valued at their total market value of US\$ 456.88, which was equivalent to SF 2,028.53.¹⁵

Therefore, the Bank's records indicate that the total value of the custody account in June 1938 was SF 42,957.24. The Article 29 value of SF 13,000.00, which was used in the October 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 29,957.24. In addition, as indicated above, the CRT has ascertained that the Account Owners did not in fact own two custody accounts, and four demand deposit accounts, as was stated in the October 2002 Award, but rather only one custody account, and two demand deposit accounts. Consequently, in order to rectify this determination, the CRT will also subtract the Article 29 value of the second custody account, which should not have been awarded in the October 2002 Award, namely SF 13,000.00, and the Article 29 value of the two demand deposit accounts which should not have been awarded, namely SF 4,280.00, a total of SF 17,280.00, resulting in a difference from the value of custody account L 47082 of SF 12,677.24. 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 158,465.50.

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 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).

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

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