

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Accounts of Paul Fellner

Claim Numbers: 222384/JG²

Original Award Amount: 269,500.00 Swiss Francs

Award Amendment Amount: 306,689.13 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Paul Fellner (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 8 August 2004, the Court approved an Award to the Claimant for a custody account and five demand deposit accounts owned by the Account Owner (the “August 2004 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 regarding 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 August 2004 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 8 August 2004 the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Paul Fellner (the “August 2004 Award”), which is the subject of this Award Amendment.

² The Claimant submitted five additional Claim Forms, which are registered under the Claim Numbers 222385, 222386, 300628, 300637 and 300638. The CRT has determined that claims 222384 and 300637 are duplicate claims and is treating them under the consolidated Claim Number 222384. The CRT has determined that claims 222385 and 300628 are duplicate claims and is treating them under the consolidated Claim Number 222385. The CRT will treat this claim in a separate determination. The CRT has determined that claims 222386 and 300638 are duplicate claims and is treating them under the consolidated Claim Number 222386. The CRT will treat this claim in a separate determination.

The August 2004 Award

In the August 2004 Award, the CRT determined that the Account Owner owned a custody account and five demand deposit accounts. The CRT further determined that the Claimant plausibly identified the Account Owner, that he plausibly demonstrated that he is related to the Account Owner, and that he 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 custody account and of four of his demand deposit accounts 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 August 2004 Award, the Bank's record indicates the name and city of residence of the Account Owner. The record indicates that the Account Owner held five demand deposit accounts and one custody account, numbered 48493, which was closed by means of transfer to another custody account, numbered 71457, on 23 September 1946.

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 account, it contained the following securities:

- 3.5% "*Motor Columbus*" A.G. für elektrische Unternehmungen Baden, 1924 Serie X A. fällig 30 June 1944 bonds with a face value of SF 1,250.00, which were sold on 21 June 1944;
- 3.5% Nordostschweizerische Kraftwerke A.G., Baden 1924, Serie A. bonds with a face value of SF 2,500.00, which were sold on 20 June 1944;
- 3.5% Rhätische Werke für Elektrizität A.G. Thusis 1924 Serie I A bonds with a face value of SF 1,250.00, which were sold on 21 June 1944;
- 20 Société Financière de Transports et d'Entreprises Industrielles (*Sofina*) shares with a face value of 500.00 Belgian Francs ("BF"), which were transferred to custody account 71457 on 21 September 1946 (the actual repository for the shares is listed as the *Banque de Bruxelles* in Brussels, Belgium); and
- 373 Société Internationale d'Énergie Hydro-Électrique S.A. (*Sidro*) Ixelles-Bruxelles shares with a face value of BF 250.00, which were transferred to custody account 71457 on 21 September 1946 (the actual repository for the shares is listed as the *Banque de Bruxelles* in Brussels, Belgium).

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 August 2004 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 he is related to the Account Owner, and that it is plausible that neither the Account Owner nor his heirs received the proceeds of his account.

Value of the accounts in the August 2004 Award

In the August 2004 Award, the Account Owner held one custody account and five demand deposit accounts. The value of the demand deposit accounts remain 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 August 2004, 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. Stocks are valued at market value.

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

- 3.5% "*Motor Columbus*" A.G. *Für elektrische Unternehmungen Baden, 1924 Serie X A. fällig 30 June 1944* bonds with a face value of SF 1,250.00. These bonds were of good quality and were trading at 92% in 1939.³ Therefore, these bonds will be valued at their face value of SF 1,250.00;
- 3.5% *Nordostschweizerische Kraftwerke A.G., Baden 1924, Serie A.* bonds with a face value of SF 2,500.00. These bonds were of good quality and were trading at 98.50% in 1939.⁴ Therefore, these bonds will be valued at their face value of SF 2,500.00;

³ The CRT was unable to determine the 1944 market value of this security. The most accurate available market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

⁴ The CRT was unable to determine the 1944 market value of this security. The most accurate available market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

- 3.5% *Rhätische Werke für Elektrizität A.G. Thusis 1924 Serie I A* bonds with a face value of SF 1,250.00. These bonds were of good quality and were trading at 83% in 1939.⁵ Therefore, these bonds will be valued at their face value of SF 1,250.00;
- 20 *Société Financière de Transports et d'Entreprises Industrielles (Sofina)* shares with a face value of BF 500.00, which were trading at BF 7,200.00 in 1938.⁶ The total market value of this stock was BF 144,000.00, which was equivalent to SF 21,268.80;⁷ and
- 373 *Société Internationale d'Energie Hydro-Eléctrique S.A. (Sidro) Ixelles-Bruxelles* shares with a face value of BF 250.00, which were trading at BF 204.50 in 1938.⁸ The total market value for this stock was BF 76,278.50, which was equivalent to SF 11,266.33.

The CRT notes that some of these securities were transferred to another custody account at the Bank. The CRT notes that the Bank's records do not indicate the owner of the account to which these securities were transferred. However, even if this account was owned by the Account Owner, there is no record of the ultimate disposition of the securities contained within it. 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 was SF 37,535.13. The Article 29 value of SF 13,000.00, which was used in the August 2004 Award, is then subtracted from the actual historic value, resulting in a difference of SF 24,535.13. 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 306,689.13.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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

⁵ The CRT was unable to determine the 1944 market value of this security. The most accurate available market value for this security was obtained from the *Zürcher Kursblatt*, 30 December 1939.

⁶ The CRT was unable to determine the 1946 market value of this security. The most accurate available market value for this security was obtained from the *Moody's Utilities* 1940, page 627.

⁷ The CRT uses official exchange rates when making currency conversions.

⁸ The CRT was unable to determine the 1946 market value of this security. The most accurate available market value for this security was obtained from *Moody's Utilities* 1940, page 627.