

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]

in re Accounts of Elisabeth Magnus

Claim Number: 708201/WT²

Original Award Amount: 189,250.00 Swiss Francs

Award Amendment Amount: 297,616.13 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Elisabeth Magnus (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 31 March 2005 the Court approved an Award to the Claimant for a custody account and a demand deposit account owned by the Account Owner (the “March 2005 Award”). At the time of that award, the bank record 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 March 2005 Award based upon this additional information recently forwarded to the CRT by the Bank.

¹ On 31 March 2005 the Court approved an award to [REDACTED 1] (the “Claimant”) for the accounts of Elisabeth Magnus (the “March 2005 Award”), which is the subject of this Award Amendment.

² The Claimant did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered GER 0003 083, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 708201.

The March 2005 Award

In the March 2005 Award, the CRT determined that the Account Owner owned a custody account and a demand deposit account. 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 her accounts and that the Claimant and represented party [REDACTED 2] were each entitled to one-half of the total 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 Records

As detailed in the March 2005 Award, the Bank's record indicates the name, maiden name and city of residence of the Account Owner, as well as the name of a previous or joint account owner. The record indicates that the Account Owner held one custody account, numbered L30190, which was closed on 28 December 1936, and one demand deposit account, which was closed on 30 April 1934.

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:

- 4% *Schweizerische Bundesbahnen von 1912/14* bonds with a face value of SF 5,000.00, which were transferred on 18 December 1936 to an account within the Bank, numbered 15200, the owner of which is not known;
- 5% *Argentine Government Port of the Capital (Buenos Aires) per 1. July 1949* bonds with a face value of 400.00 Pounds Sterling ("£"), which were cashed in (*einkassiert*) on 9 July 1935 (the actual repository for the bonds is listed as the *Midland Bank Ltd.* in London, England);
- 5% *Schweizerische Bundesbahnen 4. Elektr. Anl. von 1924* bonds with a face value of SF 3,000.00, which were cashed in on 15 April 1935;
- 5% *Schweizerische Bundesbahnen 5. Elektr. Anl. von 1925* bonds with a face value of SF 6,000.00, which were cashed in on 24 July 1936;
- 5.5% *Internationale Anleihe des Deutschen Reiches von 1930, Schweizerische Tranche* bonds with a face value of SF 3,000.00, which were transferred on 19 December 1937 to an account within the Bank, numbered 15200, the owner of which is not known;

- *6% Japanische Anleihe von 1924 per 10. Juli 1959* bonds with a face value of £ 400.00, which were transferred on 18 December 1936 to an account within the Bank, numbered 15200, the owner of which is not known (the actual repository for the bonds is listed as the *Midland Bank Ltd.* in London);
- *6% Rentenbons Compania Hispano-Americana de Electricidad. Madrid von 1920* bonds with a face value of 5,175.00 Argentinean Pesos Moneda Nacional (“\$ MN”), which were transferred on 19 December 1936 to an account within the Bank, numbered 15200, the owner of which is not known;
- *6 Compania Hispano-Americana de Electricidad Madrid Aktien Serie D à Ptas. 100.*— shares, which were transferred in 1936³ to an account within the Bank, numbered 1211, the owner of which is not known; and
- *12 Compania Hispano-Americana de Electricidad Madrid Aktien Serie E à Ptas. 100.*— shares, which were transferred in 1936⁴ to an account within the Bank, numbered 1211, the owner of which is not known.

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 March 2005 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 her heirs received the proceeds of her accounts.

Value of the Accounts in the March 2005 Award

In the March 2005 Award, the Account Owner held one custody account and one demand deposit account. The value of the demand deposit account 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 March 2005, 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

³ The notations indicating the day and month of this transfer are illegible in the available Bank’s records.

⁴ The notations indicating the day and month of this transfer are illegible in the available Bank’s records.

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, and stocks are valued at market value. According to the additional information from the Bank, the Account Owner held a custody account, numbered L30190, with the following securities:

- *4% Schweizerische Bundesbahnen von 1912/14* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 101.00%⁵ when transferred on 18 December 1936. As the bonds were of good quality and had market values above their face value, the market value will be used to determine the value of this asset. The total market value of these bonds was SF 5,050.00;
- *5% Argentine Government Port of the Capital (Buenos Aires) per 1. July 1949* bonds with a face value of £ 400.00. Since these bonds were cashed in on 9 July 1935, they will be valued at their face value of £ 400.00, which was equivalent to SF 6,032.00;⁶
- *5% Schweizerische Bundesbahnen 4. Elektr. Anl. von 1924* bonds with a face value of SF 3,000.00. Since these bonds were cashed in on 15 April 1935, they will be valued at their face value of SF 3,000.00.
- *5% Schweizerische Bundesbahnen 5. Elektr. Anl. von 1925* bonds with a face value of SF 6,000.00. Since these bonds were cashed in on 24 July 1936, they will be valued at their face value of SF 6,000.00;
- *5.5% Internationale Anleihe des Deutschen Reiches von 1930, Schweizerische Tranche* bonds with a face value of SF 3,000.00. These bonds were in default and were trading at 28.50% when they were transferred on 19 December 1937.⁷ Therefore, these bonds shall be valued at their total market value of SF 855.00;
- *6% Japanische Anleihe von 1924 per 10. Juli 1959* bonds with a face value of £ 400.00. These bonds were of good quality and were trading at 86.00% when they were transferred on 18 December 1936.⁸ As the bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value of these bonds was £ 400.00, which was equivalent to SF 6,120.00;
- *6% Rentenbons Compania Hispano-Americana de Electricidad. Madrid von 1920* bonds with a face value of \$ MN 5,175.00. These bonds were of good quality and were trading at 64.50% when they were transferred on 19 December 1936.⁹ As the bonds were of good quality and had market values below their face value, their face value will be used to determine the value of this asset. The total face value of these bonds was \$ MN 5,175.00, which was equivalent to SF 4,370.29;
- *6 Compania Hispano-Americana de Electricidad Madrid Aktien Serie D à Ptas. 100.—* shares, which were trading at SF 300.00 each when transferred in 1936,¹⁰ for a total market value of SF 1,800.00; and

⁵ The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1936.

⁶ The CRT uses official exchange rates when making currency conversions.

⁷ The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1937.

⁸ The market value for this security was obtained from *The Financial Times*, 19 December 1936.

⁹ The market value for this security was obtained from *Zürcher Kursblatt*, 31 December 1936.

¹⁰ *Id.*

- 12 *Compania Hispano-Americana de Electricidad Madrid Aktien Serie E à Ptas. 100.*— shares, which were trading at SF 298.50 each when transferred in 1936,¹¹ for a total market value of SF 3,582.00.

The CRT notes that the Bank's records do not indicate who owned the account numbered 15200 or the account numbered 1211, into which certain securities were transferred. Additionally, account numbers 15200 and 1211 appear as the transfer destination for other, unrelated accounts held by apparently unrelated account owners. Even if these accounts were owned by the Account Owner, the records do not indicate when the accounts were closed, or the disposition of the securities contained within them. Accordingly, the CRT concludes that the Account Owner did not receive these securities or their proceeds.

The CRT further notes that two of these securities were held in London, England. The CRT further notes that it was a common practice for most British-issued securities to remain physically in England, deposited in an English bank, and that trade in Europe in these issues was by way of so-called depositary receipts; thus, although these securities were not physically held in Switzerland, the Bank in Switzerland was ultimately in control of the disposition of these assets.

Therefore, the Bank's records indicate that the total value of the awardable assets in this custody account was SF 36,809.29. The Article 29 value of SF 13,000.00, which was used in the March 2005 Award, is then subtracted from the actual historic value, resulting in a difference of SF 23,809.29. 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 297,616.13.

Division of the Award Amendment

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant represents his brother, [REDACTED 2]. Accordingly, the Claimant and represented party [REDACTED 2] are each entitled to one-half of the total award amendment amount.

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).

¹¹ *Id.*

Certification of the Award Amendment

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
25 September 2008