

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN RE: HOLOCAUST VICTIM ASSETS  
LITIGATION

This Document Relates to: All Cases

X  
: Case No. CV 96-4849 (ERK)(MDG)  
: (Consolidated with CV 96-5161  
: and CV 97-461)  
:  
:  
: MEMORANDUM & ORDER  
:  
:  
:  
:  
:  
:  
:  
:  
:  
X

**MEMORANDUM & ORDER APPROVING 41 AWARD AMENDMENTS CERTIFIED  
BY THE CLAIMS RESOLUTION TRIBUNAL PURSUANT TO ARTICLE 31(2) OF  
THE RULES GOVERNING THE CLAIMS RESOLUTION PROCESS AND  
AUTHORIZING PAYMENT FROM THE SETTLEMENT FUND**

KORMAN, C.J.:

On 9 August 2000, I approved the Settlement Agreement between the parties and expressly retained jurisdiction over "the implementation of the settlement and distributions to plaintiff class members" as well as "the disposition of the settlement fund and escrow fund."

Articles 29 and 23 of the Rules Governing the Claims Resolution Process, as amended, (the "Rules") addresses the determination of the value of awardable accounts and award amounts, as well as the division of awards. Article 29 sets forth value presumptions for accounts with unknown or low values. According to Article 29, if the 1945 value of an account to be awarded is unavailable from the bank records, or if the 1945 value is less than the average 1945 value of an account of similar type, the 1945 value of the account shall be determined to be, in the absence of plausible evidence to the contrary, the average 1945 value of an account of similar type. Article 23(1) governs the division of individual awards and provides, in part, that 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. Finally, Article 27(1) of the Rules directs the Claims Resolution Tribunal (the "CRT") to seek the most equitable and fair result under the circumstances.

The CRT, in applying Article 29 of the Rules to determine award amounts, has developed certain guiding practices, which have been incorporated into decisions subsequently approved by the Court. After several months of experience in assessing claims and reviewing bank documents, and noting that account values as reflected in the bank records have often been depleted by fees and other bank charges, the CRT, beginning in approximately July 2002, has generally concluded that values recorded in bank records that are below the average values provided in Article 29 of the Rules do not constitute plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules. Accordingly, and with the approval of this Court, in such cases, the CRT has generally awarded the average value for that type of account, as provided in Article 29. The CRT now recommends the adjustment of 39 awards approved by the Court prior to the adoption of this practice whose award amounts were based upon values in the bank records that were below the presumptive values for the type of account awarded. To amend the accounts that have already been awarded, the adjusted values used to calculate the award amounts have been subtracted from the Article 29 values. The current value of the resulting differences is calculated by multiplying them by a factor of 12.5, in accordance with Article 31(1) of the Rules.

The CRT also recommends amending two awards to adjust the division of the award proceeds among entitled claimants, pursuant to Articles 23(1) and 27(1) of the Rules. In one award amendment, the CRT has corrected the division to reflect familial relationships accurately. In that case, the original award identified the three claimants as cousins, and awarded each of

them one-third of the account belonging to the Account Owner, who was the claimants' grandfather. In fact, two of the three claimants are siblings, and, pursuant to Article 23 of the Rules, should share one-half of the award amount, with the other half going to their cousin. In the other award amendment, the CRT has added an additional entitled family member, not included in the original award, who filed an Initial Questionnaire with this Court.

The 41 Award Amendments are listed in Annex A to this Order. This Court's approval of the resources to pay for increases in the award amount for 39 of these Award Amendments is sought. The total amount of these 39 Award Amendments is US \$ 1,724,424.74 (SF 1,948,599.96 converted at a rate of 1.13 Swiss Francs per U.S. Dollar).

If the Court approves these Award Amendments, the current value of the total 2,790 accounts, awarded thus far for CRT I and CRT II combined, will rise to US\$ 215,967,078.63. For CRT II alone, including the Awards submitted with this letter, a total of 1,586 Awards for 2,583 accounts totaling US\$ 204,267,078.63 will have been made to Victims or Targets of Nazi Persecution making up the Deposited Assets Class, with the average Award amounting to US\$ 128,793.87.<sup>1</sup> For CRT I, which took place from 1997 through 2000, a total of 207 accounts, with a value of US\$ 11.7 million, were awarded as accounts belonging to Victims of Nazi Persecution.

As set forth in the Award Amendments and as required by Article 31(3) of the Rules, the Certified Award Amendments shall be paid in full by the Special Masters after approval of such Award Amendments by the Court.

Therefore, it is hereby

ORDERED that the attached 41 Award Amendments are hereby approved pursuant to Article 31(2) of the Rules; and

---

<sup>1</sup> The total of 346 Certified Denials approved thus far remains unaffected.


ORDERED that for the payment of 39 of these 41 Award Amendments certified by the CRT and hereby approved by the Court, the Signatories of the Settlement Fund are hereby directed to immediately transfer US \$ 1,724,424.74 from the Settlement Fund to the Awards Payment Account of the Special Masters.

It is further ordered that the Special Masters shall provide the Court with the name and address of every class member receiving an Award Amendment, which information shall be filed with the Court under seal.

I will issue additional orders approving Awards and Award Amendments certified by the CRT and transferring further sums from the Settlement Fund as the CRT certifies them to this Court.

Dated: Brooklyn, New York  
December 2, 2004

SO ORDERED:

  
Edward R. Korman  
United States District Judge