

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants Gertruda Nevimova,
represented by Tea Kadlcikova,

and Tea Kadlcikova,
represented by Zdenek Kadlcik

in re Account of Bedrich Spielmann

Claim Numbers: 213802/PY; 213803/PY¹

Award Amount: 15,500.00 Swiss Francs

This Certified Award is based upon the claims of Gertruda Nevimova, née Spielmannova, (“Claimant Nevimova”) and Tea Kadlcikova, née Spielmannova, (“Claimant Kadlcikova”) (together the “Claimants”) to the published account of Bedrich Spielmann (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

Information Provided by the Claimants

The Claimants each submitted a Claim Form identifying the Account Owner as their paternal great-uncle, Bedrich Spielmann, who was born in Prostejov, Czechoslovakia. The Claimants indicated that their great-uncle resided in Germany and in Austro-Hungary, including Czechoslovakia, and that he was an attorney or businessman by profession. According to the Claimants, Bedrich Spielmann had two children, Siegfried and Hermann, who were born in Munich, Germany. The Claimants stated that Bedrich Spielmann, who was Jewish, was deported to a concentration camp, where he perished. The Claimants indicated that Bedrich Spielmann was the brother of their paternal grandfather, Vilem Spielmann. In support of their claims, the Claimants submitted their birth certificates and identity cards, indicating that they were born in Prostejov, and that their parents were Felix and Alzbeta Spielman; their grandfather’s military certificate, indicating that his name was Vilem Spielmann, and documents certifying that the Claimants and their father were interned in concentration camps. Claimant

¹ Claimant Nevimova and Claimant Kadlcikova submitted additional claims to the account of Ignatz Spielmann, which are registered under the Claim Numbers 213819 and 213801, respectively. The CRT will treat the claims to this account in separate decisions.

Nevimova indicated that she was born on 20 July 1933 in Prostejov, and Claimant Kadlcikova indicated that she was born on 18 June 1932, also in Prostejov.

Information Available in the Bank's Records

The Bank's records consist of a list of accounts and printouts from the Bank's database. According to these records, the Account Owner was Bedrich Spielmann, who resided in Bratislava, Czechoslovakia. The Bank's records indicate that the Account Owner held a safe deposit box that was rented on 13 August 1938. The account was considered for registration in the 1962 survey of assets held in Switzerland by foreigners or stateless persons who were or who were believed to have been victims of racial, religious or political persecution, conducted by Swiss banks pursuant to a Federal decree in 1962 (the "1962 Survey"). The Bank's records indicate that the account was in fact never reported in the 1962 Survey because, according to the Bank's records, the Account Owner was "not persecuted."

The Bank's records do not indicate when the rental agreement was terminated. These records indicate that the safe deposit box was emptied on 19 May 1964, on which date its contents were determined to be valueless. There is no evidence in the Bank's records that the Account Owner or his heirs collected the contents of the safe deposit box themselves.

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 Claimants in one proceeding.

Identification of the Account Owner

The Claimants' great-uncle's name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the Claimants did not identify the Account Owner's city of residence, but finds that as their great-uncle was born in Czechoslovakia and resided in various parts of Austro-Hungary, that it is plausible that he may have also resided in Bratislava at some point. The CRT notes that the name Bedrich Spielmann appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") to be probably those of victims of Nazi persecution (the "ICEP List"). Moreover, the CRT notes that there are no other claims to this account. Taking all these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that he perished in a concentration camp.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimants' great-uncle. The documents include copies of the Claimants' identity cards, birth certificates, and their grandfather's military certificate, providing independent verification that the Claimants' relatives bore the family name "Spielmann" and that they resided in Czechoslovakia, which supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

The Issue of Who Received the Proceeds

Given that the account continued to exist after the Second World War although the Account Owner was killed in a concentration camp; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about the account from the Bank after the Second World War due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability, and the application of Presumptions (b), (h), (i) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their great-uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one safe deposit box. The Bank's records indicate that on 19 May 1964 the safe deposit box was emptied and that its contents were determined by the Bank to be without value. The CRT notes, however, the Bank's records do not contain a detailed inventory of the box's content. Moreover, the CRT considers it implausible that an account owner would hold a safe deposit box for the purpose of depositing valueless objects. In this regard, the CRT notes that an account owner would have been charged SF 500.00 in fees from 1

January 1945 to 19 May 1964.² The CRT considers it implausible that an account owner would pay fees to rent a safe deposit box to hold valueless objects. Accordingly, the CRT has determined that, for purposes of valuation of the award amount, the safe deposit box shall be considered to be of unknown value. According to Article 29 of the Rules, if value of the contents of a safe deposit box were less than SF 1,240.00, and in the absence of plausible evidence to the contrary, the value of the contents of a safe deposit box shall be determined to be SF 1,240.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 15,500.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Accordingly, Claimant Nevimova and Claimant Kadlcikova are each entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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

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

Claims Resolution Tribunal
10 December 2004

² Claimant Nevimova and Claimant Kadlcikova submitted additional claims to the account of Ignatz Spielmann, which are registered under the Claim Numbers 213819 and 213801, respectively. The CRT will treat the claims to this account in separate decisions.