

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award Amendment

to Claimant [REDACTED]¹

in re Accounts of Friedrich Spitz

Claim Number: 217895/DE²

Original Award Amount: 207,360.00 Swiss Francs

Award Amendment Amount: 67,425.00 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Friedrich Spitz (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 27 December 2002, the Court approved an Award to the Claimant for a custody account and two demand deposit accounts owned by the Account Owner (the “December 2002 Award”). At

¹ On 27 December 2002, the Court approved an award to Claimant [REDACTED] (the “Claimant”) for the accounts of Friedrich Spitz (the “December 2002 Award”), which is the subject of this Award Amendment.

² The Claimant submitted sixteen additional claims, which are registered under the Claim Numbers: 214057, 214824, 217926, 218240, 218241, 218242, 218445, 218446, 218526, 219032, 400274, 400289, 400306, 400309, 400316, and 400320. In separate decisions, the CRT treated the Claimant’s claim to the accounts of: Maria Bach, Sandorne Barna (Blum), Alice Blum, Gabor Blum, Robert Blum, Imre (Emerich) Guttman (Guttman, Gutmann), Paul Gutmann (Guttman), Therese Gutman (Guttman, Gutmann), David Kohn, Samuel Schwarcz (Schwolrazne), Sandor Schwarz, Josef Spitz, and Siegfried Steiner. See *In re Accounts of Imre Guttman* (approved on 8 August 2006); *In re Account of Robert Blum* (approved on 27 February 2007); *In re Account of Maria Bach* (approved on 19 March 2007); *In re Account of Sandorne Barna* (approved on 19 March 2007); *In re Accounts of Alice Blum* (approved on 19 March 2007); *In re Account of Gabor Blum and Account of Matyas Blum* (Power of Attorney Holder Gabor Blum)(approved on 19 March 2007); *In re Account of Therese Gutmann* (approved on 19 March 2007); *In re Account of David Kohn* (approved on 19 March 2007); *In re Accounts of Samuel Schwarcz* (approved on 19 March 2007); *In re Account of Sandor Schwarz* (approved on 19 March 2007); *In re Account of Siegfried Steiner* (approved on 19 March 2007); *In re Account of Paul Gutmann* (approved on 23 March 2007); and *In re Account of Josef Spitz* (approved on 23 March 2007). In addition, in a determination dated 29 May 2008, the CRT treated the Claimant’s claims to the accounts of Irme Gutmann, David Guttman, and Gizella Guttman. The CRT will treat claims to the account of Frieda Braun and any other outstanding claims in further determinations.

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 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 December 2002 Award based upon this additional information recently forwarded to the CRT by the Bank.

The December 2002 Award

In the December 2002 Award, the CRT determined that the Account Owner owned a custody account and two demand deposit accounts. The CRT further determined that the Claimant plausibly identified the Account Owner, that she plausibly demonstrated that she is related to the Account Owner, and that she 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 accounts and that the Claimant was entitled to the entire award amount.

Finally, the CRT determined that the Bank's records 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 December 2002 Award, the Bank's records indicate the name and address of the Account Owner. The records indicate that the Account Owner was Friedrich Spitz of Berlin, Germany. According to these records, the Account Owner held a demand deposit account in Swiss Francs, a demand deposit account in United States Dollars, and a custody account numbered L49377. The Bank's records indicate that all of the accounts were opened in 1931, that both demand deposit accounts were closed on 10 April 1938, and that the custody account was closed on 6 April 1938. There is no evidence that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

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 numbered 49377, it contained the following securities:

- 3.5% *Schweizerische Bundesbahnen von 1899/1902, Serie A/K* bonds with a face value of SF 7,000.00, which were sold on 4 June 1936;
- 4% *Schweizerische Bundesbahnen von 1912/1914* bonds with a face value of SF 5,000.00, which were sold on 4 June 1936;

- 4.5% *Schweizerische Bundesbahnen von 1928* bonds with a face value of SF 1,000.00, which were sold on 4 June 1936; and
- 5% *Eidgenössische Anleihe von 1925/1928* bonds with a face value of SF 5,000.00, which were sold on 4 June 1936.

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 December 2002 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 she is related to the Account Owner, and that it is plausible that neither the Account Owner nor his heirs received the proceeds of his accounts.

Value of the accounts in the December 2002 Award

In the December 2002 Award, the Account Owner held two demand deposit accounts and a custody account. The value of the two 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 December 2002, 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.

According to the additional information from the Bank, the Account Owner's custody account numbered 49377 contained the following securities:

- 3.5% *Schweizerische Bundesbahnen von 1899/1902, Serie A/K* bonds with a face value of SF 7,000.00. These bonds were of good quality and were trading at 102.20% when sold on 4 June 1936. Since these 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 7,154.00;³

- *4% Schweizerische Bundesbahnen von 1912/1914* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 101.40% when sold on 4 June 1936. Since these 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 5,070.00;⁴
- *4.5% Schweizerische Bundesbahnen von 1928* bonds with a face value of SF 1,000.00. These bonds were of good quality and were trading at 106.50% when sold on 4 June 1936. Since these 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 1,065.00;⁵
- *5% Eidgenössische Anleihe von 1925/1928* bonds with a face value of SF 5,000.00. These bonds were of good quality and were trading at 102.10% when sold on 4 June 1936. Since these 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 5,105.00;⁶

Therefore, the Bank's records indicate that the total value of the custody account numbered 49377 before its closure in April 1938 was SF 18,394.00. The Article 29 value of SF 13,000.00, which was used in the December 2002 Award, is then subtracted from the actual historic value, resulting in a difference of SF 5,394.00. 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 67,425.00.

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 claim 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).

Certification of the Award Amendment

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

Claims Resolution Tribunal
29 September 2008

³ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1936.

⁴ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1936.

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

⁶ The market value for this security was obtained from the *Zürcher Kursblatt*, 31 December 1936.