

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]
acting on behalf of himself and [REDACTED], [REDACTED], [REDACTED]
and [REDACTED]

in re Account of Max Spitzer

Claim Number: 220770/KB

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Max Spitzer (the “Account Owner”) at [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her great grandfather, Max Spitzer, who was born on 28 July 1858 in Budapest, Hungary, and who was married to [REDACTED] in Budapest. The Claimant stated that Max Spitzer and his wife had three children: [REDACTED], [REDACTED] and [REDACTED], all born in Budapest in 1892, 1894 and 1896 respectively. The Claimant advised that her relative was an owner of “Fisher, Simon es Tarsa,” the largest luxury textiles store in Budapest at the time. The Claimant provided specific street addresses in Budapest where her great grandfather lived and worked, including the work street address on Becsi Utca. The Claimant stated that her great grandfather, who was Jewish, traveled frequently through Switzerland for business. According to the Claimant, her great grandfather died in Budapest in 1937. The Claimant advised that her great grandfather’s wife died in Budapest in 1959; his daughter [REDACTED] was murdered by the Nazis in Auschwitz in 1944; his son [REDACTED] died in Budapest in 1983; and his other daughter [REDACTED] died in Budapest in 1978. The Claimant is the daughter of [REDACTED] (deceased), who was the daughter of [REDACTED]. [REDACTED], whom the Claimant represents, is the daughter of [REDACTED], while [REDACTED] and [REDACTED] are the daughters of [REDACTED], and [REDACTED] is the daughter of [REDACTED].

Information Available in the Bank Records

The bank records consist of printouts from the Bank's electronic database. According to these records, the sole Account Owner was Max Spitzer from Budapest, who opened a custody account in 1932. The bank records indicate that the Account Owner lived at Becsi Utca 10 in Budapest. The bank documents show that the account was closed on 29 November 1947, but they do not show who closed the account or received the proceeds.

The Tribunal's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her relative's name and place of residence matches the published name and place of residence of the Account Owner. Moreover, the specific street which the Claimant records as her relative's work address matches that of the Account Owner contained in the unpublished bank records. In support of her claim, the Claimant submitted many documents, including birth and death certificates and visa documentation.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the persons who in fact owned the account after Max Spitzer's death were Victims of Nazi Persecution. When Max Spitzer died in 1937, the heirs to the account would have been his wife and his children. These relatives were Jewish, and lived in Budapest during the War, and therefore would have been targets of Nazi persecution. The Tribunal notes that Max Spitzer's daughter [REDACTED] was murdered by the Nazis in Auschwitz.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she and the relatives whom she represents are related to the Account Owner by submitting documents demonstrating that the Claimant is the great granddaughter of the Account Owner and that [REDACTED], [REDACTED], [REDACTED] and [REDACTED] are the grandchildren of the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owner.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners

and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owner or his family, there is a substantial likelihood that these funds went to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs received the proceeds. The Account Owner died in 1937, so it is not possible that he received the proceeds of the account, which was closed in 1947. Given the disruption caused by the Second World War and the persecution of Jews by the Nazis during the War in the countries surrounding Switzerland, it is plausible that the Account Owner's heirs did not receive the proceeds. The Tribunal notes that it would have been extremely difficult and dangerous for the Account Owner's heirs to access the account because they were living in Communist Eastern Europe after the Second World War. Furthermore, there is no evidence in the bank records suggesting that the Account Owner's heirs closed the account and received the proceeds themselves.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her great grandmother and that relationship justifies an Award. Finally, the Tribunal has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

Pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. In this case, the value of the account at issue is based on the Article 35 presumptions, and there is the possibility of other competing claims. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, 35% of the total award amount is 52,325.00 Swiss Francs.

Division of the Award

The Claimant is representing her relatives in these proceedings. According to Article 29 of the Rules, children of the Account Owners who have submitted a claim are entitled to equal shares of the award. Where a child of the Account Owner is deceased, but that child's descendants are living and have submitted a claim or claims, those descendants are entitled to equal portions of the deceased child's share of the award. Accordingly, the Claimant, [REDACTED], [REDACTED], and [REDACTED] will each receive one sixth of the award, and [REDACTED] will receive one third.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal 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

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Articles 37(3)(a) and (b) of the Rules provide that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value and is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

3 May 2022

Date



Veijo Heiskanen
Senior Claims Judge