

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Ziga Spitzer

Claim Number: 501860/DE

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Mrs. [REDACTED 1], née [REDACTED], (the “Claimant”) to the account of Mira Spitzer. This award is to the published accounts of Ziga Spitzer (the “Account Owner”), over which Mira Spitzer (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).¹

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 uncle, Žiga Spitzer (Sigmund), who was born on 6 June 1897 and was married on 20 August 1927 in Zagreb, Yugoslavia (now Croatia) to Miroslava (Mira) Vilhelmina Marija Spitzer, née Novak, who was born on 10 September 1899 in Zagreb. The Claimant indicated that Miroslava Spitzer was the Claimant’s father’s sister, and was not Jewish. The Claimant indicated that Žiga Spitzer, who was Jewish, worked as a dentist and ran a private dental office out of the couple’s home on Kurelceva Street 3, Zagreb, where they resided from 1927 to 1938. According to the Claimant, her aunt worked as a homemaker and also assisted the Claimant’s uncle with his dental office. The Claimant indicated that her aunt and uncle had no children.

The Claimant further indicated that following her uncle’s death in May 1938, the Claimant’s aunt inherited all of her husband’s property and closed his dental office. According to the

¹ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Ziga Spitzer is indicated as holding one account, over which Mira Spitzer held power of attorney. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts.

Claimant, following the Nazi occupation in 1941, Žiga Spitzer's mother, [REDACTED], was deported to a concentration camp, where she perished.

The Claimant indicated that after the Nazi occupation, her aunt, who was not Jewish, was discriminated against due to her marriage and her Jewish married name. The Claimant further indicate that her aunt feared her mother-in-law's fate, and therefore changed her last name back to her maiden name and returned to her parents' house, where she spent the War years helping her parents with their shop, which was later confiscated along with other property by the communist regime in 1945. According to the Claimant, her aunt had two subsequent marriages.

The Claimant indicated that her aunt died in 1991 and was survived by her only sibling, the Claimant's father, [REDACTED], who died in 1994.

In support of her claim, the Claimant submitted copies of several documents including:

- (1) a copy of Žiga Spitzer's birth certificate, indicating that Žiga (Zschiga or Sigmund) was born to [REDACTED], a trader, and [REDACTED], née [REDACTED], a homemaker, on 6 June 1897 in Zagreb;
- (2) a printout of Mira Spitzer's birth record, indicating that Miroslava Vilhelmina Marija was born to [REDACTED], a watchmaker, and [REDACTED], née [REDACTED], a homemaker, on 10 September 1899 in Zagreb, and noting that her family name was changed to [REDACTED] after her marriage to [REDACTED] in 1977;
- (3) a printout of [REDACTED]'s birth record, indicating that [REDACTED] was born to [REDACTED] and [REDACTED], née [REDACTED], on 30 September 1908 in Zagreb, and noting that [REDACTED] had officially changed his name to [REDACTED], and had married [REDACTED] in 1938;
- (4) a copy of Žiga Spitzer and Mira Novak's marriage certificate, indicating that Žiga Spitzer, son of [REDACTED] and [REDACTED], married Miroslava Novak, daughter of [REDACTED] and [REDACTED], on 20 September 1927 in Zagreb;
- (5) a copy of Žiga Spitzer's death certificate, indicating that he was married to Mira Spitzer, and that he died on 6 May 1938 in Crikvenica, Yugoslavia (now Croatia);
- (6) a copy of a ledger from the State Archive in Zagreb dated 1938, detailing court matters and including a listing numbered, 484, regarding records relating to Dr. Žiga Spitzer, of Zagreb;
- (7) a copy of a letter dated 15 June 1938, noting that Mira Spitzer, represented by an attorney, had made an application to the Zagreb municipality indicating that she was the sole successor of the late Dr. Žiga Spitzer, of Kurelceva 3, Zagreb;
- (8) a copy of the municipal court in Zagreb's decision, dated 21 October 1938, granting Mira Spitzer the title deed for her husband, Žiga Spitzer's real estate holdings following his death;
- (9) a segment of a contract, dated 19 December 1939, certified by a notary public and containing Mira Spitzer's signature;
- (10) a copy of the Claimant's sister's birth certificate, indicating that [REDACTED 2] was born to [REDACTED] and [REDACTED], née [REDACTED], on 27 July 1944 in Zagreb;
- (11) a copy of the Claimant's own birth certificate, indicating that [REDACTED 1] was born to [REDACTED] and [REDACTED], née [REDACTED], on 15 March 1948 in Zagreb;

(12) a Yad Vashem record, indicating that [REDACTED], born in 1873 and residing in Zagreb, perished in the Holocaust in 1941, and noting that her name appears in the Museum of Genocide Victims in Belgrade; and

(13) a copy of Mira Spitzer's death certificate, indicating that Miroslava Novak, daughter of [REDACTED] and [REDACTED], and wife of the late [REDACTED], died on 10 April 1991 in Rijeka, Yugoslavia (now Croatia).

The Claimant indicated that she was born on 15 March 1948 in Zagreb. The Claimant is representing her sister, [REDACTED 2], née [REDACTED], who was born on 27 July in 1944 in Zagreb.

Information Available in the Bank's Records

The Bank's records consist of a power of attorney form and two printouts from the Bank's database. According to these records, the Account Owner was Dr. Ziga Spitzer of Zagreb, Yugoslavia, and the Power of Attorney Holder was Mrs. Mira Spitzer, who resided at Kurelceva 3 in Zagreb. The Bank's records include the signature of both the Account Owner and the Power of Attorney Holder from 10 September 1929. The Bank's records indicate that the Account Owner held one demand deposit account and one custody account.²

The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner. The Claimant's aunt's name also matches the published name of the Power of

² The Bank's records contain a power of attorney form that references a "Titeldepot," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

Attorney Holder. The Claimant identified the Account Owner's professional title and the Power of Attorney Holder's exact street address, which matches unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including: (1) a copy of Žiga Spitzer's birth certificate; (2) a printout of Mira Spitzer's birth record; (3) a copy of Žiga Spitzer and Mira Novak's marriage certificate, indicating that they married in Zagreb; (4) a copy of Žiga Spitzer's death certificate; (5) a copy of a ledger from the State Archive in Zagreb listing Dr. Žiga Spitzer, of Zagreb; (6) a copy of a letter, dated 15 June 1938, indicating that Mira Spitzer believed herself to be the sole successor of the late Dr. Žiga Spitzer, of Kurelceva 3, Zagreb; (7) a copy of the municipal court in Zagreb's decision, granting Mira Spitzer the title deed for her husband Žiga Spitzer's real estate holdings following his death; and (8) a copy of Mira Spitzer's death certificate. All of these documents provide independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner.

The Claimant also submitted a sample of her aunt's signature, which matches the signature of the Power of Attorney Holder contained in the Bank's records.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant indicated that the Account Owner was Jewish, and that he died in 1938, before the Nazi occupation of Yugoslavia in 1941. The CRT notes that while the Account Owner was not a Victim of Nazi Persecution, the Account Owner's wife and direct heir was a Victim of Nazi Persecution. The Claimant stated that the Account Owner's wife was forced to change her name and retreat to her parents' house in order to avoid discrimination by the Nazis because she had been married to a Jewish man. The Claimant also stated that the Account Owner's mother perished in the Holocaust.

As noted above, a person named [REDACTED], who had the same name as Ziga Spitzer's mother, was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner and the Power of Attorney Holder by submitting specific information and documents, demonstrating that the Power of Attorney Holder was the Claimant's paternal aunt and the Account Owner was the Claimant's uncle by marriage. In support of her claim, the Claimant submitted copies of several documents, including: (1) a copy of Žiga Spitzer's birth certificate; (2) a printout of Mira Spitzer's birth record, indicating that Miroslava Vilhelmina Marija was the daughter of [REDACTED] and [REDACTED], née [REDACTED], and noting that her last name was changed to [REDACTED] in 1977; (3) a printout of [REDACTED]'s birth record, indicating that [REDACTED] was born to [REDACTED] and [REDACTED], née [REDACTED], and noting that [REDACTED] had officially changed his name to [REDACTED] and had married

[REDACTED] in 1938; (4) a copy of Žiga Spitzer and Mira Novak's marriage certificate; (5) a copy of the Claimant's sister's birth certificate, indicating that [REDACTED 2] is the daughter of [REDACTED] and [REDACTED], née [REDACTED]; (6) a copy of the Claimant's own birth certificate, indicating that [REDACTED 1] is the daughter of [REDACTED] and [REDACTED], née [REDACTED]; and (7) a copy of Mira Spitzer's death certificate, indicating that [REDACTED] was the daughter of [REDACTED] and [REDACTED].

There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

Given that the Account Owner died in 1938; that the Power of Attorney Holder, who was the Account Owner's direct heir, lived in Nazi-occupied Yugoslavia and was forced to hide her relationship with her late husband because he was Jewish; that it is plausible that Nazi officials confiscated the Account Owner's remaining estate after they came to power in Yugoslavia; that there is no record of the payment of the Account Owner's accounts to him nor any record of a date of closure of the accounts; that the Power of Attorney Holder and the Account Owner's heirs would not have been able to obtain information about his accounts after the Second World War from the Bank 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; that the Power of Attorney Holder resided in a Communist country after the war; and given the application of Presumptions (h), (i), and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) the CRT concludes that it is plausible that the accounts proceeds were not paid to the Account Owner, the Power of Attorney Holder, or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not the Account Owner, the Power of Attorney Holder 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 Claimant and the party she represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant and represented party have plausibly demonstrated that the Account Owner was their paternal uncle by marriage and that the Power of Attorney Holder was their paternal aunt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. Pursuant to Article 29 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 current 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 and the average value of a demand deposit

account was 2,140.00. Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00. The current value of these amounts is calculated by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

Division of the Award

According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the Account Owner, whether by blood or marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing her sister. Accordingly, the Claimant and the represented party are each entitled to one-half of the total award amount.

Certification of the Award

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

Claims Resolution Tribunal
12 May 2009